

**CONSTITUTION UPDATES**

Relevant Portfolio Holder	Councillor Matthew Dormer, Leader of the Council and Portfolio Holder for Planning, Governance and Partnerships
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non-key

**1. SUMMARY OF PROPOSALS**

- 1.1 The report details changes to the constitution that were proposed by the Constitutional Review Working Party at a meeting held on 12<sup>th</sup> February 2019.

**2. RECOMMENDATIONS**

**Council is asked to RESOLVE that**

- 1) an Electoral Matters Committee be established and the proposed terms of reference for this Committee, as detailed at Appendix 1, be approved;**
- 2) the Officer Scheme of Delegations should be amended so as to delegate Directors with the power to consider appeals by employees in respect of discipline and dismissal for staff below the level of Head of Service;**
- 3) the current employment policies remain in place (including the relevant appeal processes) until such time as replacement policies have been formally approved;**
- 4) the Parental Leave Guidance for Councillors attached at Appendix 3 to the report be adopted;**
- 5) public speaking should be permitted to take place at all Committee meetings held in public where there are currently no opportunities for the public to register to speak; and**
- 6) the updated Code of Practice in Relation to Licensing matters under the Licensing Act 2003 and the Gambling Act 2005, provided at Appendix 4 to this report, be adopted.**

**3. KEY ISSUES**

Electoral Matters Committee

- 3.1 Currently all electoral matters are reported directly to Council. These issues could however be delegated to a Committee of elected Members to consider and debate. Should an Electoral Matters Committee be introduced the Committee could undertake the following (though not exclusively):
- *Community Governance Reviews* (dealing with reviews of Parishes and potential Parish areas).
  - *Statutory Polling District, Places and Stations Review* (held every five years). Although a Council decision would be needed some steer from Members is required and an Electoral Matters Committee could provide a conduit for this. Through considering these issues a permanent Electoral Matters Committee would save the need to set up a special working group (this review is due this year and needs to be completed by Jan 2020).
  - *Alteration of Polling Places*. To alter polling places outside of the statutory review period. This would allow Redditch Borough Council to be more reactive to wishes of the electorate/premises holders to consider requests for polling station changes and act on them in a timely manner.
- 3.2 Proposed terms of reference for an Electoral Matters Committee can be viewed at Appendix 1 to this report.
- 3.3 Meetings of the Electoral Matters Committee, should it be established, would be held in public. Therefore Councillors not appointed to the Committee would have an opportunity to address Members about any issues impacting on their ward.
- 3.4 Members should note that the final findings regarding the Statutory Polling District, Places and Stations Review would still need to be reported to Council if an Electoral Matters Committee was established.

Appeals

- 3.5 The Constitutional Review Working Party also discussed arrangements at the Council in respect of considering appeals against any decisions resulting in the dismissal of staff. These are currently determined by a Panel of Members serving on the Employment Appeals Committee. However a number of issues with this approach were raised for Members' consideration (please view Appendix 2 for further information). The trade unions were asked for their views prior to the discussion at the meeting and these are detailed in the appendix.
- 3.6 The Constitutional Review Working Party concluded that the Council's arrangement should be changed to enable Directors not previously involved in a particular case to consider any appeals from staff. This change would require amendments to the Officers' Scheme of Delegations.

- 3.7 Members are asked to note that, should this change to the process for employment appeals be agreed, this will not come into effect until the Council's relevant employment policies have been updated.

Parental Leave Guidance for Councillors

- 3.8 The Constitutional Review Working Party discussed a proposal that had been received by the Chair to consider the potential to adopt a policy for Councillors in respect of parental leave. The Council does not currently have any such policy.

- 3.9 Members noted during the meeting that should a policy be introduced any Councillor on maternity, paternity or adoption leave would retain their legal duty under the Local Government Act 1972 to attend a meeting of the Council, including Committee meetings, within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.

- 3.10 There were some concerns expressed by Members at the Constitutional Review Working Party meeting that the introduction of a policy in respect of this matter could create some confusion as the legal requirements under the Local Government Act 1972 retained precedence in respect of Members' attendance at meetings. For this reason Members proposed that this should be adopted as Parental Leave Guidance. The proposed guidance can be viewed at Appendix 3.

Committee Meetings and Public Speaking

- 3.11 During the course of the Constitutional Review Working Party Members considered a complaint with regard to the potential for the public to speak at public Committee meetings. Some Committees, including Council, the Executive Committee and Planning Committee, already have arrangements in place which permit Members of the public to speak at Committee meetings, subject to providing appropriate notice in accordance with the Council's constitutional requirements. However, public speaking arrangements are not formalised for some other Committees which meet in the public arena, including the Overview and Scrutiny Committee, Licensing Committee and Audit, Governance and Standards Committee. At these meetings the public can only speak at the discretion of the Chair. The complaint called for residents to be provided with an opportunity to speak at all public Committee meetings.

- 3.12 Members noted that at other local authorities the public are sometimes provided with an opportunity to speak at Committee meetings held in the public. Often a public speaking item will be included early on the agenda and residents can speak at Committee meetings during this item, subject to providing sufficient notice to the Council. Members agreed that a similar arrangement should be introduced at Redditch Borough Council for all Committees which held meetings that were open to the public and which did not already have arrangements in place that would enable the public to speak at those meetings.

- 3.13 To ensure consistency with arrangements already in place for the Planning Committee Members agreed that each resident should register to speak and should be provided with a maximum of three minutes to speak at the Committee meeting.
- 3.14 Members are asked to note that the Constitutional Review Working Party is not proposing to amend the public speaking arrangements already in place for full Council, the Executive Committee and the Planning Committee.

Licensing Code of Practice

- 3.15 The Constitutional Review Working Group was also called upon to consider proposed changes to the Licensing Code of Good Practice. Officers proposed a number of amendments to ensure that Members of the Licensing Committee could comply with best practice, the requirements in respect of declaring interests and the provisions regarding bias and predetermination set out in the Localism Act 2011. The proposed updated copy of the Licensing Code of Good Practice can be viewed at Appendix 4 to the report.
- 3.16 There are a significant number of changes proposed to the Licensing Code of Good Practice. The changes are highlighted in Appendix 5 to this report.

**Financial Implications**

- 3.17 No specific financial implications have been identified.

**Legal Implications**

- 3.18 Review and revision of the Constitution is governed by Article 15 of the Constitution.
- 3.19 Section 101 of the Local Government Act 1972 (as amended) gives a general power to local authorities to discharge functions through Officers. Local Authorities are required by the same Act to maintain a list of these, which is referred to as the Scheme of Delegation. This sets out those powers of the Council which can be carried out by Officers of the Council.
- 3.20 Councillors on maternity, paternity or adoption leave should be mindful of their legal duty under the Local Government Act 1972 to attend a meeting of the Council, including Committee meetings, within a six month period unless the Council Meeting agrees to an extended leave of absence prior to the expiration of that six month period.
- 3.21 The changes proposed to the Licensing Code of Good Practice are designed to ensure that the Council is compliant with requirements set out in the Licensing Act 2003, the Gambling Act 2005 and Localism Act 2011.

**Service / Operational Implications**

- 3.22 The Council's Constitution currently requires that the Officer Scheme of Delegations be approved by Members at the Annual Meeting of the Council. However, additional updates can be made throughout the year to the constitution to ensure that the content remains relevant.

**Customer / Equalities and Diversity Implications**

- 3.23 The proposal to introduce public speaking arrangements at a number of Committee meetings will enable the public to engage more effectively with the local democratic process.

**4. RISK MANAGEMENT**

- 4.1 The main risks associated with the details included in this report are failure to comply with governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation.

**5. APPENDICES**

Appendix 1 - Proposed Electoral Matters Committee – Terms of Reference

Appendix 2 – Employment Appeals Information

Appendix 3 – Proposed Maternity / Paternity / Adoption Leave Guidance for Councillors

Appendix 4 – Proposed Code of Practice in Relation to Licensing Matters under the Licensing Act 2003 and Gambling Act 2005

Appendix 5 – Code of Practice in Relation to licensing Matters - Detailing Amendments

**6. BACKGROUND PAPERS**

None

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