



**Rochford District
Council**

REPORT TITLE:	Appointment of the Constitution Working Group (CWG)
REPORT OF:	Monitoring Officer – Paul Burkinshaw

REPORT SUMMARY

The Council has a statutory duty to maintain an up to date Constitution, Local Government Act 2000, the Constitution must cover standing orders, delegations and code of conduct for members, it can also have local conditions and rules that reflect its own area and how to make decisions.

The Monitoring Officer (MO) has the responsibility to ensure that the Council's Constitution is up to date. To facilitate this the Council under Article 12 of its Constitution makes provision for a Constitution Working Group (CWG) which is a cross party working group that enables the MO to consult with Members on changes necessary to ensure an effective and up to date Constitution is maintained by the Council.

RECOMMENDATIONS

- R1 -** That the Council appoints a Constitution Working Group of four Members, one from each political group.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATIONS

- 1.1 The recommendations are required to fulfil the resolutions made by the Council on 23 May 2023.

2.0 BACKGROUND INFORMATION

- 2.1.1 The Local Government (Access to Information) Act 1985 lays down how meetings of the Council should be advertised and how the public should have access to information and meetings.
- 2.2 As a Working Group rather than a Committee or Sub-Committee the CWG exists outside the committee system and therefore there is no need for it to be politically balanced or be open to the public.
- 2.3 Therefore, it is suggested that the CWG is politically representative, meaning that each political group is represented on the Working Group. One seat will be allocated to each of the following groups: Conservative, Liberal Democrats, Rochford District Residents and Non-aligned independents. Each Group Leader will be asked to nominate a Member of their group to join the Working Group.
- 2.4 Should there be a need to change the membership of the CWG during the municipal year, this should be approved by the Committee following nominations from the Group Leaders.
- 2.5 The matter was addressed in *R v Eden District Council ex parte Moffat* 1989) by the Court of Appeal. The Court accepted the concept that a working group is acceptable in law. There is no reason not to have a panel or body that could be tasked to think what the best way would be to do things.
- 2.6 The primary consideration is the intention of the Council the was addressed in *R v Warwickshire District Council ex parte Bailey* (1991) which decided as long as there was nothing inherently unlawful behind the intent of the working group then as long as intended to be a working group that was what it was. In this case there was no delegated authority to make decisions.
- 2.7 The Local Government Act 2000 places a duty on local authorities to have a written Constitution that must cover standing orders, delegated processes and the code of conduct for members, it can also have local conditions and rules that reflect its own area and how to make decisions.
- 2.8 The Monitoring Officer (MO) role includes ensuring that the Constitution is kept up to date. The MO can make minor changes to the Constitution without consultation with the Constitution Working Group (CWG) or Audit and Governance Committee, if necessary, by law or to correct errors, see Article

12 of the Constitution. In all other cases the CWG or Audit and Governance Committee will have due regard to the advice of the MO prior to submitting a report to Full Council for approval.

- 2.9 To facilitate changes to the Constitution the CWG has been set up as a working group. The group has no delegated authority to make decisions but is tasked to work with the MO to what changes to the Constitution would facilitate decision making, transparency and good governance of the Council.
- 2.10 The Council's Constitution at part 3, 3a requires the Audit & Governance Committee to consider a report from the MO at the beginning of the Municipal Year, for the Committee to appoint the membership of the CWG.
- 2.11 Working Group meetings are not open to the public and are not subject to the statutory requirements to publish agendas and papers in advance of the meeting. However, in the interests of transparency, the meeting papers and notes of the meetings of the CWG will be available to the public on request.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications.

4.0 LEGAL IMPLICATIONS

- 4.1 The legal implications are within the body of the report.

5.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 5.1 The main resource implications of this report relate to staffing. The CWG will need to be supported in its work by a number of officers; predominantly, the Monitoring Officer, the Acting Director of Governance and the Corporate Manager – Democratic Services.

6.0 RELEVANT RISKS

- 6.1 The principal risk related to this report is that the Council does not have adequate governance arrangements and could potentially make unsound or unlawful decisions. This risk is unlikely to occur but would have significant impacts. Furthermore, the work of the Constitution Working Group will ensure that the Council's system of Committees is robust, and Councillors and Officers will receive all necessary training to ensure that they are able to effectively operate within the revised system. The Monitoring Officer will retain the overall statutory responsibility for ensuring that the Council's governance arrangements are sound.

7.0 ENGAGEMENT/CONSULTATION

7.1 No formal public consultation is required in respect of the Council's governance arrangements.

8.0 EQUALITY & HEALTH IMPLICATIONS

8.1 There are no equality impacts associated with appointing a Working Group.

9.0 ENVIRONMENT & CLIMATE IMPLICATIONS

9.1 There are no environment and climate impacts associated with appointing a Working Group

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APPENDICES

None.

BACKGROUND PAPERS

None.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Annual Council – Adoption of the Committee Style of Governance	23 May 2024
Full Council	28 June 2023