



Rochford District
Council

REPORT TITLE:	Appointment of the Constitution Working Group
REPORT OF:	Monitoring Officer

REPORT SUMMARY

At the Annual Council meeting on 23 May 2023, the Council resolved to adopt a committee style of governance. As part of this resolution the Council agreed to instruct the Constitution Working Group (CWG) to consider and make recommendations to Full Council on the composition and terms of reference of committees by December 2023. The Council also resolved that the CWG would assist the Monitoring Officer to make the necessary amendments to the Constitution which will be presented to the Full Council for adoption by March 2024.

This report seeks the Council's agreement to appoint a Working Group of six Members which is politically representative – i.e., one Member from each group. The Working Group will set its own frequency of meetings but is likely to need to meet at least once a month for the period July 2023 to February 2024.

The terms of reference for the CWG are set out in the main body of the report, including identifying items which are out of scope.

RECOMMENDATIONS

- R1 – That the Council appoints a Constitution Working Group of six Members, one from each political group.**
- R2 – That the terms of reference for the Constitution Working Group, as set out in paragraphs 3.3 to 3.5, be agreed.**

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 OTHER OPTIONS CONSIDERED

- 2.1 The CWG could be set up as a Working Group of the Executive; however, as the Constitution and committee make-up are Council functions rather than Executive functions it is better governance for the CWG to be created as a Full Council Working Group.
- 2.2 The Council could decide not to appoint a CWG and undertake the work itself. This is not recommended as it would add considerably to the workload of the Full Council.

3.0 BACKGROUND INFORMATION

- 3.1 The Council has resolved to instruct the CWG to complete a number of pieces of work associated with the decision to implement a committee style of governance from May 2024. The CWG has previously operated as an Executive Working Group with Members being appointed by the Portfolio Holder. However, as the matters being considered by the CWG relate to Council functions rather than the Executive it is recommended that the CWG for 2023/24 is appointed by the Full Council.
- 3.2 As this is a Working Group rather than a Committee or Sub-Committee the CWG is not subject to the political balance calculations. 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, Independent and Green, Rochford District Independents, and Independent Conservatives. Each Group Leader will be asked to nominate a Member of their group to join the Working Group. These names will be reported to the Council, if available, on the date of the meeting.
- 3.3 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.

Terms of Reference

- 3.4 The CWG will make recommendations to the Full Council on the committee structure to be implemented in May 2024, including:-
- The number of Committees, their titles and number of Members.
 - The responsibility and functions of each Committee, including any delegated authority from the Full Council.
 - The frequency of the Committee meetings.
 - Any proposals for Sub-Committees or Working Groups associated with each Committee.

In making these recommendations the CWG will have regard to the following:-

- The type of Committee structure operated by comparator councils (for example, the CIPFA “Nearest Neighbours” comparison group).
 - The level of workload that the structure will create for Councillors and how this will be accommodated with the Council membership of thirty nine.
 - The implications on officer resources to support the new structure.
- 3.5 The Monitoring Officer will review the whole Constitution and redraft large sections of the Constitution to accommodate the Committee system. The CWG will act as a consultative group, providing a steer to the Monitoring Officer and approving the draft amendments before recommending to the Full Council that the revised Constitution is adopted in its entirety. The CWG is not constrained to amending the Constitution only where necessary for the implementation of the Committee system. It can also make proposals to alter other elements of the Constitution where improvements can be made – for example, Council procedure rules.
- 3.6 The CWG will consider and determine the engagement activity needed to support the implementation of the Committee system. It will also produce a programme of training events / workshops to help support Councillors and officers with the transition.

Out of Scope

- 3.7 The CWG will not set the Member Scheme of Allowances as this is a matter for the Independent Remuneration Panel (IRP) and then the Full Council. However, it will provide information to the IRP about the Committee structure and anticipated workload of the Chairs, Vice-Chairs and Members of those Committees to inform the IRP’s review of allowances which will run concurrently with the work of the CWG.
- 3.8 The CWG cannot make alterations to the make-up of the Council or its electoral arrangements.

Timetable

- 3.9 The CWG will set its own timetable of meetings; however, the milestone deadlines for its work are as follows:-

Activity	Date
Council Decision to Appoint a Constitution Working Group	28/06/2023
Report from CWG to Full Council to agree composition and terms of reference of committees	14/12/2023
Report from IRP to Full Council with revised scheme of members’ allowances	14/12/2023
CWG recommend revised constitution to Full Council for adoption	13/02/2024
‘Go Live’ date for Committee System	21/05/2024

4.0 FINANCIAL IMPLICATIONS

- 4.1 There will be nominal costs associated with the operation of the CWG, such as Councillor mileage claims to attend meetings and room hire, if Council-owned venues are not available. Steps will be taken to avoid any additional expenditure, for example using virtual meetings where suitable and holding in person meetings in Council venues.
- 4.2 It is not anticipated that any specialist external support will need to be brought in to support this programme due to the expertise that already exists within the Council. If any specific legal drafting is required, this can be met through existing legal budgets.

5.0 LEGAL IMPLICATIONS

- 5.1 The Council can determine its own Committee structure but, in doing so, it must have regard to the following:-
- The Council is required to have the following Committees by law:-
 - Licensing / Regulatory (s.6 Licensing Act 2003)
 - Standards (s.53 Local Government Act 2000)
 - Although it is not a legal requirement to appoint an Audit Committee, the Council is required “to ensure that its financial management is adequate and effective and that it has a sound system of internal control which facilitates the effective exercise of its functions.” Part of these internal control arrangements are to appoint an Audit Committee.
 - It is strongly recommended that the Council appoints and delegates authority to determine planning applications to a Planning Committee.
 - It is strongly recommended that the Council appoints at least one Scrutiny Committee.
 - There are certain functions that the Full Council cannot delegate to a Committee (Local Authorities (Committee System) Regulations 2012).
- 5.2 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. A ‘Model Constitution’ was issued in 2000 (Modular Constitutions for English Local Authorities) which most councils adopted at the time and which continues to form the basis of many current local authority constitutions.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 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 Joint Acting Directors of People & Governance and the Principal Democratic & Corporate Services Officer. However, the Constitution

was already programmed for review and therefore this process can be absorbed within existing officer time.

- 6.2 Some ICT input may be required to support the digital publication of the revised Constitution. It is intended that a more accessible and easier to navigate digital version of the Constitution will be available.

7.0 RELEVANT RISKS

- 7.1 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. The risk has been mitigated by the Council adopting a recognised system of governance (the Committee System) rather than an 'alternative' and untested governance model. 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.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 No formal public consultation is required in respect of the Council's governance arrangements. However, the CWG will need to consider engagement activities for all Members, external partners and stakeholders to ensure that the new Committee structure and responsibilities are clear and to explain the main constitutional changes.

9.0 EQUALITY IMPLICATIONS

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

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 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 2023