

## **PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION**

### **Report of the Monitoring Officer**

#### **1. INTRODUCTION AND PURPOSE OF REPORT**

- 1.1 To provide the Monitoring Officer's proposals and recommendations for various amendments to the Constitution, previously agreed by the Constitution Working Party on 14 October 2019, 6 November 2019 and 20 February 2020, to be considered at the Council Meeting on 9 July 2020 (and in advance by the CRM&G Scrutiny Committee and Cabinet).

#### **2. BACKGROUND**

- 2.1 During the Municipal Year of 2019/20 the Constitution Working Party has undertaken a review of the Constitution in conjunction with a review of the Business Programme. The Council has previously approved the recommended amendments to the Business Programme, which have been adopted and published.
- 2.2 Save for the amendment of typographical errors or amendments which are required by law (which can be undertaken by the Monitoring Officer), any changes to the Constitution need to be approved by the Council Meeting.
- 2.3 The Constitution Working Party has met on 5 occasions since July 2019. This report brings together all the recommendations made by the Constitution Working Party at those meetings, save for the recommendations that have already been agreed by the Council in relation to the Business Programme, and those which were put forward in the report to the Council Meeting on 16 January 2020 (amendments to the Council Meeting Procedure Rules) and which stand adjourned for consideration at the Council Meeting on 2 April 2020.
- 2.4 Further consideration will be given to the remaining parts of the Constitution which have yet to be reviewed during the next Municipal Year, including, but not limited to:
  - 2.4.1 Officer's Code of Conduct;
  - 2.4.2 Confidential Reporting Policy;
  - 2.4.3 various definitions contained in the Constitution which have been superceded;
  - 2.4.4 the Scheme of Delegation;
  - 2.4.5 all sections relating to Planning;
  - 2.4.6 Joint Committees;
  - 2.4.7 the Finance Procedure Rules;
  - 2.4.8 the Contract Procedure Rules; and
  - 2.4.9 the process for nominations for Mayor and Deputy Mayor.

### 3. PROPOSED AMENDMENTS

#### 3.1 The Guide to the Constitution

3.1.1 The proposed amendments to the Guide to the Constitution are shown in the marked up version of the Guide at Appendix A and referred to in summary below.

3.1.2 It is proposed that the Guide is deleted in its entirety as an external public facing document as it serves no legal purpose in its current form. However, some of the information, referred to below should be placed back into the Constitution at the appropriate place (from where they were removed):

3.1.2.1 Public speaking on planning should be re-inserted into the Constitution;

3.1.2.2 Reference to Substitute Members should be re-inserted into the Constitution;

3.1.2.3 Planning responsibilities should be re-inserted into the Constitution.

#### 3.2 Part 1 to the Constitution – Summary and Explanation

3.2.1 The proposed amendment to Part 1 is shown in the marked up version of Part 1 – Summary and Explanation at Appendix B. The only amendment is to reflect the name change from SK Solutions to Totally Local Company.

#### 3.3 Part 2 – Articles of the Constitution

3.3.1 There are 19 Articles to Part 2 of the Constitution and the proposed amendments to those Articles are shown in the marked up version of Part 2, Articles 4, 6, to 8, 10, 15 to 18, at Appendix C. No amendments are proposed to Articles 1, 2, 3, 5, 9, 11 to 14 and therefore are not contained in Appendix C. Article 19 is not included in the Appendix C as it only a typographical amendment. Some of the amendments in the other articles are typographical only. The proposed amendments are as follows:

	Part 2 – Articles of the Constitution	
2.4	Article 4 – The Council Meeting	Proposed amendment - “Local Development Framework” to “Local Plan” and adopt that amendment throughout the Constitution.
2.5	Article 6 – Scrutiny Committees	Proposed amendments to include dispensing with the names and remits of the Scrutiny Committees to provide flexibility and also amend to provide that the names and remits of the Scrutiny Committees are determined at Annual Council.
2.7	Article 7 – The Cabinet	Proposed amendment – remove “Executive” at 7.04
2.8	Article 8 – Ordinary Committees	Proposed amendments - typographical amendment and amendment re clarification of training for members taking place prior to sitting on a committee.
2.10	Article 10 -	Typographical amends at 10.01(c) 3 – missing closing

	Contributors Committee / Member Committee / Funding Committee	brackets 10.01(c)4 – removed reference to 2015-2018 as appropriate 10.06 – typographical amend – “member ship” to “membership”
2.15	Article 15 – Decision Making	Proposed amendment to Key Decisions value – Amend value of land transactions and leases etc from £250,000 to £500,000. Specify that the limit relates to the monetary value of each individual transaction when more than one transaction is involved in a Key Decision and that the limit of £500,000 is not the total value of the linked transactions being considered as one Key Decision.
2.16	Article 16 – Finance, Contracts and Legal Matters	Proposed amendment –  “The affixing of the Common Seal will be attested by the Head of Legal and Democratic Governance or other legal officer authorised by him/her and will be witnessed by a further legal officer authorised by the Head of Legal and Democratic Governance”.  This removes the need to have the Mayor or Deputy Mayor present on a weekly basis and ensure that contracts can be sealed on an urgent and more flexible basis, in line with other GM Authorities.
2.17	Article 17 – Review and Revision of the Constitution	Proposed amendment –  It is the responsibility of the Monitoring Officer to monitor and review the operation of the Constitution every 2 years.
2.18	Article 18 – Suspension, Interpretations and Publication of Constitution	Proposed amendment –  Remove – “The Monitoring Officer will ensure that the summary of the Constitution is widely available within Stockport and is updated as necessary”.  Amend to:  “The Monitoring Officer will ensure that the Constitution is available in hard copy to members of the public who wish to inspect it at the Council’s offices and that an electronic copy is available on the Council’s website. The Monitoring Officer will ensure that a review of the Constitution is undertaken at least every 2 years and that his/her recommendations as a result of such review are reported in writing to the Constitution Working Party if changes are proposed”.

2.19	Article 19 – Partnership Working	No Amendments save for any definitions that need to be updated and one typographical amendment at 19.04 – “borough” to “Borough”.
	General	Insert amendment on provenance of document so that it is clear that any documents that have not be drafted by the Council are marked as such (e.g. AGMA Constitution, Terms of reference for TfGMC)

3.4 Part 3 (Scheme of Delegation) and Part 4 (Proper Officer Appointments) will be reviewed during the next Municipal Year.

3.5 Part 5 – Procedure Rules (no Appendix)

3.5.1 PR1 – Council Meeting Procedure Rules were the subject of a separate report that went to the Council Meeting on 16 January 2020.

3.5.2 PR2 – Policy Framework and Budget Procedure Rules requires all references to “Executive” to be amended to “Cabinet” unless they are references to Executive Decisions or executive functions.

3.5.3 PR3 – Cabinet Procedure Rules contains various typographical amendments to be made.

3.5.4 PR4 – Scrutiny Procedure Rules requires at amendment at Rule 5 to refer to there being as least “6 ordinary meetings of each Scrutiny Committee in each municipal year” rather than 7, further to the re-casting of the Business Programme.

3.5.5 PR5 – Financial Procedure Rules will be reviewed, as necessary, in conjunction with the Council’s Chief Finance Officer during the next Municipal Year.

3.5.6 PR6 – Contract Procedure Rules. These are currently being reviewed in conjunction with the other STAR authorities.

3.5.7 PR7 – Access to Information Procedure Rules require only typographical amendments.

3.5.8 PR8 – Officer Employment Procedure Rules will be reviewed, as necessary, during the next Municipal Year with stakeholders.

3.5.9 PR9 – Adoption of Budget, Plans and Strategies Procedure Rules will be reviewed, as necessary, in conjunction with the Council’s Chief Finance Officer during the Next

3.5.10 Municipal Year.

3.6 Part 6 – Codes and Protocols (All Codes and Protocols not referred to below will be reviewed during the course of the next Municipal Year)

3.6.1 CP1 - Code of Conduct for Councillors and Co-opted Members (Appendix D)

3.6.2 Further to the publication of a report of the Committee on Standards in Public Life in January 2019 (entitled “Local Government Ethical Standards”) and a report of the Monitoring Officer presented to the Standards Committee meeting on 2 September 2019 it was agreed by the Standards Committee to put forward the following proposed amendments to the Code of Conduct to the Constitution Working Party (“CWP”) and ultimately the Council Meeting:

(i) Insertion of the Acas definition of bullying and harassment at paragraph 3.1(b) of the Code after “You must not ..... (b) bully or be abusive to any person”:

*“Bullying and harassment means any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended. It is not necessarily always obvious or apparent to others, and may happen in the workplace without an employer's awareness (ACAS Definition of bullying and harassment)”.*

3.6.3 Further to the meeting with the CWP on 20 February 2020, the CWP recommend to the Council Meeting that the following alternative Acas definition be included in the Constitution rather than the definition referred to above as the Constitution does not refer to “harassment” and the above definition refers to “workplace” and “employer” which is not strictly applicable to the context of the Code of Conduct:

*“Acas (the Advisory, Conciliation and Arbitration Service) state that bullying may be characterised as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient”.*

3.6.4 Insertion of a new paragraph 4 in CP1 entitled “Review of Code” and a new paragraph 4.1 and 4.2 as follows:

*“4.1 The Code will be reviewed annually by the Monitoring Officer who will then report their findings to the Standards Committee;*

*4.2 The Monitoring Officer will periodically seek the views of neighbouring authorities on their Codes of Conduct and report their findings to the Standards Committee”.*

3.6.5 Insertion of the words below in bold the existing paragraph 2.8 in CP1 and removal of the struck through words:

“2.8 Respect for Others

Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of ~~their race, age, religion, gender, sexual orientation or disability~~ **any protected characteristic included in the Equalities Act 2010 (or other legislation in force from time to time)**. They should respect the impartiality and integrity **of the office of the** authority's **Mayor, Deputy Mayor**, statutory officers, and its other employees”.

3.6.4 Further to an internal audit report of the Council to make the following amendments:

- to clarify that any new interests of any type are to be disclosed to the Monitoring Officer within 28 days of the member or co-opted member becoming aware of such interest (and not just within 28 days of becoming a member or co-opted member); and
- to amend the threshold value of the requirement to disclose any gifts and hospitality by increasing it from £25 to £50 and including a further amendment that a disclosure should be made if the value of any gifts or hospitality received over the course of any Municipal Year from, or on behalf of, one person/company/entity exceeds a total value of £50.

### 3.7 CP 2 - Officers Code of Conduct (Appendix E)

3.7.1 Further to an internal audit report of the Council to make the following amendments/recommendations:

- to amend paragraph 8 “Payment, gifts and hospitality”, to include reference to the requirement for all officers to disclose any gifts and hospitality received of the value of £50 or more to their line manager within 28 days of the offer or receipt of such and include a further amendment that a disclosure should be made if the value of any gifts or hospitality received over the course of any Municipal Year from, or on behalf of, one person/company/entity exceeds a total value of £50; and
- to recommend a further review of this Code and Protocol be undertaken by the Monitoring Officer, CWP and stakeholders to include, but not limited to, the introduction of an Officers’ Register of Interests and how that is to be used and kept updated on the Council’s iTrent software programme.

### 3.8 CP4 – Confidential Reporting Policy (also known as whistleblowing) (Appendix F)

3.8.1 Further to an internal audit report of the Council to make the following amendments/recommendations:

- (i) to insert an additional bullet point at paragraph 3.4:
  - modern slavery
- (ii) to recommend a review of the Confidential Reporting Policy by the Monitoring Officer, CWP and stakeholders, including but not limited to, modern slavery;
- (ii) to remove the name and contact details of the previous Monitoring Officer at paragraph 6.5 and insert the general monitoring officer’s email address of [monitoring.officer@stockport.gov.uk](mailto:monitoring.officer@stockport.gov.uk).

3.9 CP5 – Procedure for Question Time at Cabinet and Committee Meetings (no Appendix)

- 3.10 Subject to the decision of the Council Meeting on the report of the Monitoring Officer to the Council Meeting on 16 January 2020 in relation to the amendment of the Council Meeting Procedure Rules and the proposed amendment to paragraph 10.2 (Notice of Questions), if approved the following consequential amendment to CP5 should be considered:

*“Questions should be submitted at least 3 hours prior to the commencement of a meetings of the Cabinet (or Cabinet Committee), or 30 minutes prior to the commencement of a meeting of an ordinary committee. This provision does not apply to area and ward committees where questions may be submitted up to the start of the meeting”.*

**4. CONCLUSIONS AND RECOMMENDATIONS**

- 4.1 The Council Meeting is recommended to give approval to the proposed amendments to the Constitution.

**BACKGROUND PAPERS**

The reports to and minutes of the meetings of:

The Standards Committee on 2 September 2019 and 18 November 2019;

The Constitution Working Party on 9 September 2019, 14 October 2019, 6 November 2019, 20 February 2020; and

The Council Meeting on 16 January 2020

Anyone wishing to inspect the above background papers or requiring further information should contact Vicki Bates on Tel: 0161 474 3219 or by email on [vicki.bates@stockport.gov.uk](mailto:vicki.bates@stockport.gov.uk)