

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	AUDIT AND STANDARDS COMMITTEE	19 SEPTEMBER 2019	6
CONSTITUTION REVIEW			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

In accordance with the instructions of the Audit and Standards Committee at their meeting on 15 March 2018, the Constitution Review Working Group have been in the process of undertaking a Constitution refresh.

The Constitution Review Working Group has provided periodic reports on its work to date and a final report was brought before the Audit and Standards Committee at its July meeting.

Members asked that a further report be brought back to clarify two aspects of the revisions, one in relation to review and revisions to the constitution and the other regarding council procedure rules.

RECOMMENDATIONS

1. To note the clarification with respect to 13.05, Amendments and Alterations Generally, to commend the same to the Council for approval
2. To agree to the revised wording as set out in paragraph 7 of the report, Council Procedure Rules (Motions) and commend the same to the Council for approval

SUMMARY OF PREVIOUS DECISIONS

Council - 3 April 2017

Finance and Democracy Committee - 19 June 2017, 19 March and 26 November 2018

Audit and Standards Committee - 15 November 2018

Finance and Democracy Committee - 26 November 2018

Council – 10 December 2018

17 January 2019

Audit and Standards Committee – 30 July 2019

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	✓
Delivering the services that customers expect of an excellent council (Clean and Green)	✓
Working with all partners (Vibrant Economy)	✓
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	✓
Promoting Fylde as a great destination to visit (A Great Place to Visit)	✓

REPORT

1. The Constitution Review Working Group has discussed and debated a number of revisions to the constitution and these are were presented to the July Committee for approval with a view to the same being recommended to the Council for adoption.
2. A number of matters were approved with the exception of the following (relevant points underlined):

Article 13: Review and Revision of the Constitution

13.05. Amendments and Alterations Generally

Except for alternations made by the Monitoring Officer under Article 13.04, changes to the constitution will only be approved by the full Council after consideration of a recommendation from the Audit and Standards Committee or a proposal from the Chief Executive or the Monitoring Officer, or by way of a members proposing a notice of motion in accordance with the Council's Procedure Rules subject to Section 101 (2) of the Local Government Act 1972 applying which allows for any committee of the council to arrange for any of its functions to be discharged by an officer of the authority.

Council Procedure Rules

11. Motions

11.1 Notice of Motion

(b) Giving Notice

Any member of the council can give written notice to the Chief Executive, Director of Resources or a member of the Governance Team, of a motion they wish to move and that such a motion may only be moved in their place should they become unable to attend the meeting for a valid reason agreed by the Chief Executive, or Monitoring Officer, in consultation with the Leader of the council.

3. With respect to 13.05, members are advised that section 101(2) of the Local Government Act 1972 provides as follows:

Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority and where by virtue of this section any functions of a local authority may be discharged by a sub-committee of the authority, then, unless the local authority or the committee otherwise direct, the sub-committee may arrange for the discharge of any of those functions by an officer of the authority

The additional wording makes it clear that amendments to the constitution that record delegations made to officers by committees may be incorporated into the constitution as an administrative act by the Monitoring Officer.

Recent examples include decisions made by Environment, Health and Housing Committee on 3 September 2019 and 11 June 2019. In both cases changes to legislation provided for new powers in relation to issuing of fixed penalty notices for household waste and littering from cars respectively, which following committee approval to use the powers, the changes were made to the Constitution, by the Monitoring Officer.

4. With respect to 11.1 (b) the Monitoring Officer believes that members of the Constitution Review Working Group were seeking to ensure that a motion of which notice had been given under rule 11 could only be moved by the member who had given the notice, unless that member was not present at the council meeting and the reason for their absence had been approved by the Chief Executive or the Monitoring Officer, following consultation with the Leader of the Council.
5. On reflection, the wording as presently proposed does not achieve that aim. The relevant wording should be included in paragraph (c) of rule 11. 1 ("At the council meeting"), not paragraph (b) ("Giving notice").
6. Additionally, officers are uncomfortable about being required to rule on the validity or otherwise of a member's reason for absence from a council meeting, particularly where the rule gives no indication of what reasons may or may not be considered "valid". Motions moved on notice are likely to be political, as might decisions on who moves them. Officers consider that decisions about whether to accept a motion being

moved by a member other than the one who gave notice of it should be made in the member arena, not the officer arena.

7. It is therefore proposed that the following changes to council procedure rule 11 be made instead of the change set out in paragraph 2 above:

11.1 Notice of Motion

(a) Purpose and limitations

Notice of motion is a procedure that allows members of the council to ask the council to discuss any matter for which the Council has a responsibility or which affects the Fylde area.

(b) Giving notice

Any member of the council can give written notice to the Director of Resources (or a member of the Governance Team in her absence) of a motion that they wish to move. The Director will publish the motion on the council's website and arrange for it to be placed on the agenda of the next available ordinary council meeting. The "next available" meeting means the first meeting falling more than eight working days after the written notice has been given. Motions will be listed on the agenda in the order in which notice was received.

(c) At the council meeting

The motion will be debated at council subject to it being moved as set out in this rule and seconded. Only the member who gave written notice of a motion under this rule may move it at the council meeting, unless the council indicates its assent to another member moving it in their place.

IMPLICATIONS	
Finance	None arising from this report
Legal	None arising from this report
Community Safety	None arising from this report
Human Rights and Equalities	None arising from this report
Sustainability and Environmental Impact	None arising from this report
Health & Safety and Risk Management	None arising from this report

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	Tracy.manning@fylde.gov.uk or 01253 658521	2 September 2019

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Constitution		Constitution