

<b>5 July 2023</b>		<b>ITEM: 4</b>
<b>General Services Committee</b>		
<b>Constitution Review Process</b>		
<b>Wards and communities affected:</b> Not Applicable	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Matthew Boulter, Democratic Services Manager		
<b>Accountable Assistant Director:</b> Not Applicable		
<b>Accountable Director:</b> Asmat Hussain, Interim Director of Law and Governance		
<b>This report is public</b>		

## Executive Summary

This report sets out the proposed way forward with regards to reviewing the Constitution, setting out a new internal review process in line with Improvement and Recovery Plan (IRP) requirements.

### 1. Recommendation(s)

- 1.1 Endorse the Constitution Working Group (CWG) process for the forthcoming review of the constitution, including the involvement of external organisations for aspects of the constitution.**

### 2. Introduction and Background

- 2.1 Under Part 2, Article 15 of the Constitution the Council has the responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the constitution are given full effect. All major changes to the constitution must approved by Full Council.
- 2.2 The Improvement and Recovery Plan (IRP) recognises the need to review the constitution as part of the council improvements. Although generally only Full Council can agree changes to the constitution the recommendations are formed by a Constitution Working Group (CWG) via formal recommendations from the General Services Committee or the Standards and Audit Committee, who are the constitutionally recognised committees which recommend changes to the Council.
- 2.3 The proposal to undertake this review in-house through a Constitution Working Group (CWG) process. This process was agreed at the Senior Leadership

Team (SLT) in March 2023 and was sent to group leaders that month for comment. There will be a requirement to bring in other external experts as and when needed.

- 2.4 Part of the improvement outlined in the IRP is to have a specific review of the Constitution's Finance Procedure Rules which sets out the standards to regulate the Council's financial administration and control processes. The Council proposes for this piece of work to be undertaken by the Chartered Institute for Public Finance and Accountancy (CIPFA) who will report to CWG and compliment the internal working group. CIPFA are the leading national professional body for public finance and good governance.
- 2.5 The Local Government Association (LGA) will provide additional support to the Council in reviewing other sections of the Constitution in line with the improvement plan. Under this umbrella, the Centre for Governance and Scrutiny (CfGS) will review the Overview and Scrutiny aspects of the Constitution as part of the overall review of the Overview & Scrutiny function.
- 2.6 This in-house review of the constitution will take several months and there are resource implications for the Legal and Democratic services team who will be involved in the process and implementation. This will include but not limited to the communications and engagement strategy to Members and officers to socialise the new constitution.

### **3. Issues, Options and Analysis of Options**

#### The New CWG Process

- 3.1 Constitutionally major amendments to the constitution are agreed at Full Council upon recommendation by the General Services Committee (GSC). In recent years the GSC recommendations have been formed by a CWG meeting to discuss amendments in detail.
- 3.2 The new proposed process will be for amendments to be formulated, discussed and drafted by an Officer Constitution Working Group (OCWG) before these amendments are presented to a Member Constitution Working Group (MCWG). Once formal recommendations on the amendments have passed both groups, formal reports will be presented to GSC and on to Full Council. See Appendix A for a diagram of the process and Appendix B for the proposed terms of reference for the two CWGs.
- 3.3 The Membership of the MCWG was included in the nominations booklet for Annual Council on 24 May 2023. A membership of 8 has been appointed and will hold its first meeting in late July.

#### Resource Implications

- 3.4 The constitution review is a long term and involved piece of work. Placed

within the context of the wider improvement activities and expectations, it poses a significant demand on the capacity of the current Legal and Democratic Services teams to support and deliver. The Democratic Services Team is currently subject to a restructure in order that capacity can be created for improvement projects relating to governance. It is also expected that the LGA support being offered will also provide further capacity.

#### **4. Reasons for Recommendation**

- 4.1 The review of the Constitution is a cornerstone of the IRP and an inhouse review process will provide stronger infrastructure for future years. The use of external, specialist and nationally recognised bodies to review specific aspects of the constitution will ensure the document represents nationally accepted best practice.

#### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 The new CWG process was presented to SLT in March 2023 followed by consultation with group leaders to ensure it reflected the broad wishes of both officers and Members.

#### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 The comprehensive review of the Constitution aligns with the IRP priorities of the Council and will ensure good governance across the council. The review of the Council's Finance Procedure Rules and Overview and Scrutiny are key priorities highlighted by Commissioners. The review itself will also facilitate any future changes to the committee structure desired by Members.

#### **7. Implications**

##### **7.1 Financial**

Implications verified by: **Rosie Hurst**  
**Interim Senior Management Accountant**

The additional financial cost in appointing CIPFA has been agreed corporately through the Expenditure Control Process. Other costs relating to the LGA and CfGS's support have been agreed strategically between Commissioners, the LGA and Thurrock Council. Any restructure of teams associated with this work will be covered by the improvement and recovery corporate budget and will require to be agreed through the relevant internal expenditure bodies. The cost of undertaking the substantive part of the review will come from existing officer time and resources.

## 7.2 Legal

Implications verified by: **Gina Clarke**  
**Governance Lawyer & Deputy Monitoring Officer (21.06.2023)**

There is a statutory duty for the Council to maintain and keep under review the Constitution and keep it up to date, which complies with the Local Government Act 2000.

It is also a requirement of the Council's Constitution that its operation is monitored and reviewed.

The proposal to review the Constitution, including the Overview and Scrutiny Committees and also the Finance Procedure Rules, which form part of the Constitution is compliant with the Council's duty. Furthermore, the review is also compliant with the requirements of the Improvement Recovery Plan which the Council is subject to following government intervention.

Changes to the Council's Constitution by law is a matter for full Council with the exception where such changes have been delegated to the Monitoring officer as set out in the Constitution.

The Council has adopted executive arrangements and therefore is required to establish overview and scrutiny committees. This is set out in sections 9F to 9FI of the Local Government Act 2000 as amended by the Localism Act 2011. Overview and scrutiny committees were created to ensure that members of the Council who are not part of the executive, act as a check and balance to hold the executive to account for the decisions and actions that affect the area of Thurrock.

The scrutiny function also can play a role in making improvements to Council policies and how they are implemented and developing policy. Current overview and scrutiny legislation recognises that local authorities are best placed to determine which overview and scrutiny arrangements best suit their own individual needs, and so gives them a great degree of flexibility to decide which arrangements to adopt. A review of the Council's overview and scrutiny arrangements is compliant with legislative requirements.

## 7.3 Diversity and Equality

Implications verified by: **Becky Lee**  
**Team Manager – Community Development and Equalities**

Relevant diversity and equality rules, procedures and statutory requirements will be picked up as part of the review and incorporated into the Constitution accordingly.

A Community Equality Impact Assessment will be completed with relevant diversity and equality rules, procedures and statutory requirements picked up as part of the review process and incorporated into the Constitution accordingly.

7.4 **Other implications** (where significant) – i.e., Staff, Health Inequalities, Sustainability, Crime and Disorder, and Impact on Looked After Children

The Constitution is a legal and procedural document and may well link to other services in the Council. If they do they will be considered as part of the review.

8. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- The Council's Constitution (<https://www.thurrock.gov.uk/constitution-of-council/thurrock-council-constitution>)

9. **Appendices to the report**

- Appendix A – CWG process flowchart
- Appendix B – Draft terms of reference for MCWG and OCWG

**Report Author:**

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