

CANNOCK CHASE COUNCIL
COUNCIL
4 APRIL 2012
REPORT OF THE MONITORING OFFICER
REVIEW OF THE CONSTITUTION
KEY DECISION – (NO)

1. Purpose of Report

- 1.1 To consider the revised Constitution and approve and adopt the same

2. Recommendation(s)

- 2.1 That the Council consider the revised draft Constitution for Cannock Chase District Council 2012 and determine whether to:

- (i) Adopt the revised draft Constitution in its entirety, or
- (ii) Refer the whole or parts of the revised draft Constitution back to the Monitoring Officer and Constitution Working Group for further consideration.

3. Summary (inc. brief overview of relevant background history)

- 3.1 The constitution was last reviewed in 2008.
- 3.2 The Constitution Working Group appointed met to review and examine the Constitution. They had several meetings and the examination was detailed and thorough.
- 3.3 In the latest draft account has been taken of the amendments made to the Constitution by the Council over the last year. It incorporates the amendments made to adopt the Strong Leader and Cabinet form of new executive arrangement approved in May 2011 and the revised Scheme of Delegation approved in August 2011.
- 3.4 There is one amendment recommended to the Scheme of Delegation approved last year. Under the Reserved Powers section of the Scheme pay and grading issues for Chief Officers was reserved to the Cabinet. This provision had been in the Constitution for some time but did not conform to the Local Authorities (Functions and Responsibility) England Regulations 1992 which provide that the power to appoint staff and determine their terms and conditions is a matter for the Council not the Executive. This has been reinforced by the provisions in the Localism Act providing for a pay policy statement relating to chief officers remuneration which must be approved by full Council. The provision reserving pay and grading issues for chief officers to Cabinet has been removed in the proposed amendments.

4. Key issues and Implications

- 4.1 The current form of Constitution of this Council originated in the modular constitution issued in 2000 by the then Office of the Deputy Prime Minister to meet the needs of the requirements of the executive arrangements imposed by the Local Government Act 2000. This was adapted to suit the particular arrangements of this Council.
- 4.2 The changes in structure and functions over the intervening years have caused the Constitution to grow in size and with this become difficult to use. There were duplications in the document which had led to inconsistencies as parts were updated and others did not keep up.
- 4.3 The intention of this latest review has been to shorten and simplify the document without changing most of the structures and practises.
- 4.4 The basic process of simplification is described in Annex 1.
- 4.5 The changes of substance in structure or practice are described in Annex 2.
- 4.6 The Sections of the Constitution which have been changed in substance are set out showing the track changes in Annex 3. Those Sections not included in Annex 3 have not been amended in substance although there will be minor changes to numbering, cross references, officers designations etc which will be incorporated in the final version.

5. Conclusions and Reason(s) for the Recommendation(s)

- 5.1 It is recommended that the revised draft Constitution appended to this report is adopted as from 23rd May 2012.

6. Report Author Details

Alistair Welch Monitoring Officer and Solicitor

SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Contribution to Council Priorities

None

Section 2

Contribution to Promoting Community Engagement

None

Section 3

Financial Implications

None

Section 4

Legal Implications

The Council is required to have a Constitution under the provisions of the Local Government Act 2000. It is good practice to review the Constitution regularly and keep it up to date.

Section 5

Human Resource Implications

None

Section 6

Section 17 (Crime Prevention)

None

Section 7

Human Rights Act Implications

None

Section 8

Data Protection Act Implications

None

Section 9

Risk Management Implications

None

Section 10

Equality and Diversity Implications

None

Section 11

List of Background Papers

File Available from the Monitoring Officer and Solicitor

Section 12

Report History

Council Meeting	Date

Annexes to Report

- Annex 1 Process of Simplification
- Annex 2 Changes of Substance to the Constitution
- Annex 3 "Track Changes" version of substantially amended sections of the Constitution (separate document)

Process of Simplification

1. The constitution was based on the original modular constitution produced in 2000 with the new Local Government Act 2000 which changed the structure of authorities from the committee system to the various executive arrangements. Over the years much has been added to the original but little taken out. The result has been a very long, repetitive and contradictory document where it is difficult to find items.
2. It has proved impossible to revise the document page by page. This part of the work had been done in 2008 when a large amount of unnecessary language was successfully removed. The remainder of the work needed a systematic approach over the whole document.
3. The basic format of the new draft Constitution is similar to the last and is shown in the Contents. There are fewer sections and most are much shorter.
4. The approach I have taken has been to tease out all the parts I can find on one topic then;
 - a) remove the obvious duplications.
 - b) Identify the contradictions and remove the part that does not accord with local practice or the law
 - c) Remove obsolete inaccurate or unnecessary references to law or processes
 - d) Remove dates and specific time-limited items
 - e) Refer as far as possible to only the three statutory officers to avoid extensive revisions in the future
 - f) Simplify some wording
 - g) Put as far as possible all remaining parts of the constitution in one place properly labelled.
 - h) Identify all parts as structure and function or procedure or codes of behaviour or responsibility/delegation keep them separate and stick rigidly to it.
 - i) Not change either local practice or the local structure.
5. In the process of dissecting the original I have found procedure in codes and vice versa and policy mixed with structure and access to information in codes etc.
6. Also I have removed repetitions which were numerous and where general enabling delegations exist I have removed most of the more specific which would fall under these.
7. The references to specific legislation are largely removed in the text and the Annexes of legislation have been cleansed and updated.

Changes of Substance to the Constitution

1. The Quorum for all committees sub-committees and other bodies EXCEPT Full Council is now 3 as opposed to ¼ of members. Three is generally accepted as the minimum necessary to function.
2. A new Rule 22 in the Council Procedure Rules to list the rules which apply to committees.

“22. RULES TO APPLY TO COMMITTEES, SUB-COMMITTEES AND OTHER BODIES

Unless otherwise stated in other sections, the following Council Procedure Rules will apply to meetings of Committees, Sub-Committees:-

4B (a) (b) (o) and (p)	<i>Order of business</i>
5 (1) and (2)	<i>Minutes</i>
6 (6)	<i>Attendance of Mover of Motion of referred to committee</i>
10 (4) (9) and (10)	<i>Length of speech, withdrawal of notice and right of reply</i>
11 (3) (4) and (5)	<i>Chair's removal of member and adjournment</i>
12	<i>Disturbance by members of the Public</i>
15	<i>Voting</i>
16	<i>Record of attendance</i>
17 (2)	<i>Absence of Chair and Vice-Chair</i>
18	<i>Application of Access to information</i>
19	<i>Public representations</i>
20	<i>sub- committees</i>
21	<i>Quorum “</i>

3. To comply with the law. All the members of the Council may take a matter to Scrutiny not just Scrutiny members.

4. The Scrutiny Call-in rules have been totally overhauled and simplified to allow a normal debate rather than an adversarial process akin to legal proceedings in court. This is in line with normal practice.
5. The local protocol for Planning Decision Making which is designed as an information leaflet for the public and members on the planning process has been moved and divided. As part of delegations it caused contradictions and confusion. The code parts are now in the Codes, the procedure parts in procedures and the small bit of delegation is in the right place.
6. The trade Union Consultative Forum was drafted as a Committee but as it functions as a Forum it has been redrafted by omitting the Committee references. Also deleted reference in it to the Corporate Joint Consultative Committee which does not now exist.
7. "Proper officer" designations are now incorporated with other delegations, as this is what they are, and the few more formal appointments are in "A" under delegations to the Chief Executive.
8. Changes and suspension of the Constitution

This had created a few issues and needed rationalising. Section 12 now covers the subject along with Council Procedure Rule 24, which has been modified to make it consistent. Clause 12.4 limits suspension of rules to only meetings with a 2/3rd members present only when the suspension is lawful and only for the duration of the meeting and proportionate to the purpose and, for Council, with the blessing of the Monitoring Officer.