

DONCASTER METROPOLITAN BOROUGH COUNCIL

ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE

WEDNESDAY, 1ST MAY, 2019

A MEETING of the ELECTIONS AND DEMOCRATIC STRUCTURES COMMITTEE was held in Room 008 - CIVIC OFFICE, on WEDNESDAY, 1ST MAY, 2019, at 2.00 pm.

PRESENT:

Chair – Councillor Phil Cole
Vice-Chair – Councillor Nick Allen

Councillors Lani-Mae Ball, Susan Durant, Sean Gibbons, Pat Haith, Charlie Hogarth, David Hughes and Sue Wilkinson.

Also in attendance:

Councillor David Nevett.

APOLOGIES:

Apologies for absence were received from Councillors Kenneth Keegan and Mark Houlbrook.

14 DECLARATIONS OF INTEREST, IF ANY

There were no declarations reported at the meeting.

15 REVISIONS TO THE COUNCIL'S CONSTITUTION

Scott Fawcus, Assistant Director of Legal and Democratic Services, presented a report which consulted Members on proposed revisions to the Council's Constitution, including the Financial Procedure Rules (FPRs) and Contract Procedure Rules (CPRs), as set out at Appendices A to C of the report, respectively, prior to any formal recommendations being considered by full Council at its Annual Council meeting on 17th May, 2019.

The proposed revisions were:

- in response to issues which have arisen since the Constitution was last reviewed. Specifically, these related to the Articles (Section 3 of Part 2 of the Constitution) Council Procedure Rules (Section 1 of Part 4 of the Constitution) and the Executive Procedure Rules (Section 4 of Part 4 of the Constitution).
- to ensure the CPRs were in line with the relevant legislation; best practice procurement practices and enhance the governance around contracting activity; and
- to ensure the FPRs were in line with the relevant legislation; current working practices; better aligned to the key decision thresholds; provide greater clarity

to managers and ensure financial decision making is made at the appropriate level.

The Chief Financial Officer and Assistant Director Finance, the Head of Financial Management, the Head of Procurement and Governance Manager were in attendance at the meeting and outlined the key changes to the Financial Procedure Rules and the Contract Procedure Rules.

Members of the Audit Committee had been invited to the meeting to comment on the proposed changes to the Constitution. The Chair welcomed Councillor David Nevett to the meeting.

Discussion followed, during which the Assistant Director for Legal and Democratic Services, the Chief Financial Officer, the Head of Financial Management, the Head of Procurement and Governance Manager responded to a range of questions and concerns from Members seeking clarity on the provisions. The Committee made the following comments/recommendations:-

Part 2 - Proposed revisions to Article 3 of the Constitution – The Full Council 3.01 Functions of Full Council:-

Following questions from Members, it was noted that the Chair of Council in consultation with the Elected Mayor could call a State of the Borough Assessment at any time. The revised suggestion was to hold a Partnership seminar to meet with other agencies to consider the State of the Borough Assessment and other matters including, health and crime and disorder and all Members of Council would be invited to attend. Members welcomed the opportunity to attend a Partnership Summit or an alternative forum to meet with other agencies to consider the State of the Borough Assessment. The Committee gave their support to the proposal to remove the obligation to hold a State of the Borough Assessment on an annual basis.

Part 2 – Articles of the Constitution Article 8 – Decision Making 8.03 Types of Decision – Appendix B1 Key Decisions and Proposed Revisions to Financial Procedure Rules

Members supported the proposal for the overall definition for key decisions to remain unchanged and for the financial threshold to be retained at £250,000 for revenue decisions, including the additional limit of over £1m for capital decisions. This change would provide a better alignment of capital decisions, provide greater clarity for managers, improve the overall understanding of the rules and remove the contradictions between the FPRs and key decision thresholds.

In relation to the additional exception which had been included in Financial Procedure Rules for Care Plans, in accordance with legislative requirements, Members were supportive of this.

Part 4 – Section 1 – Council Procedure Rules 15.2.2 – Questions by Members

In relation to a Member of the Council being able to ask the Mayor, the relevant Cabinet Member or the Chair of a Committee a Supplementary question in relation to questions on and Without Notice, Members welcomed this proposal which they felt was the right approach, thereby bringing consistency to the procedure.

Proposed revisions to Executive Procedure Rules - Part 4 – Section 4 – Executive Procedure Rules - 1.8 Quorum for a meeting of the Executive

In discussing the quorum of a meeting of the Executive, Members were supportive of simplifying the procedure if either the Mayor or Deputy Mayor were unable to attend at a meeting of the Executive. It was agreed that the quorum for a meeting of the Executive shall be 3, including either the Mayor or Deputy Mayor. However, the Committee wanted to ensure that in the event of both the Mayor and Deputy Mayor being absent at a meeting of the Executive, that the quorum of Cabinet should be 3, plus one additional Member, this was to support accountability of the Cabinet.

Part 4 – Section 4 – Executive Procedure Rules – Conduct of Executive Meetings

The Committee supported the proposal to provide a process if either the Mayor or Deputy Mayor were unable to attend and Chair at a meeting of the Executive.

Proposed revisions to Financial Procedure Rules – Appendix B1

During Members' consideration of the proposed revisions to the provisions of the Financial Procedure Rules, it was noted that there was a drafting error on (page 24) of the agenda papers, in respect of Section B.14 of Appendix B1, which should read as '£250,000' and not '£250' as outlined. Furthermore, a typographical error was also highlighted at Paragraph 14(c) (i), (page 4) of the report, which should read as 'from' £50,000 and not 'to' £50,000, as outlined. The Head of Financial Management gave an undertaking to amend accordingly.

In referring to paragraph 14(c) (ii), of the report regarding the alignment of the financial limits to the FPRs relating to the new key decision thresholds, a Member queried the reasons why there was a significant increase from £50,000 to £250,000 to the limit for approval of Grants to Voluntary organisations. In response, the Chief Financial Officer and Assistant Director Finance explained that previously there was an inconsistency in relation to decision making in respect of some Grants to Voluntary organisations, particularly relating to the commissioning of services opposed to grants generally. Currently there were a range of thresholds in respect of providing grants to Voluntary Organisations, including the commissioning of services, which had different thresholds for similar activities. Increasing the threshold limit to £250,000 provides simplicity, clarity and consistency in respect of delegated authority to provide such grants/commissioning of services.

During further discussion, in respect of FPR, E.17, (Page 39) of the agenda 'Grants to Outside Bodies, 'Where the Council was acting as an accountable body', a Member raised concerns regarding the removal of safeguards-protections for both the Council and the accountable-funding body, and queried whether those safeguards were included elsewhere in the Constitution. The Head of Financial Management, confirmed that FPR E.17 had not been removed. The safeguards currently in place remained and covered both when the Council was the accountable body and when it was not.

During discussion in relation to FPR C.17 'Asset Management', a Member commented that whilst the Council's Property Register was available in both electronic and hard copy formats, pointed out that the information held on the electronic register conflicted with the information held on the paper register. To ensure that this matter was addressed, it was proposed that FPR. C.17 be amended to reflect that the Council had a 'complete' register of all Council land and buildings.

Part 4 – Constitution - Revisions to Contract Procedure Rules (CPRs) – Appendix C1 and Appendix C2 (Complimentary Guide)

During Members' consideration of the proposed changes to Contract Procedure Rules, the Head of Procurement and Chief Financial Officer and Assistant Director Finance responded to questions from Members seeking clarity and an understanding of the use of Third Party Framework Agreements and the term 'Verbal' quotations.

Members made reference to the impact of Brexit, which was subject to EU procurement rules and further to clarity being sought, the Head of Procurement provided an explanation with regard to the Council's obligations under the Social Value Act 2012 provision, in relation to the procurement of contracts, as outlined in paragraph 19 of the report. Members also spoke about the broader environmental impact and the improvement on the Borough through the procurement of services, in particular relating to the recyclable materials. Following further questions, the Committee endorsed the proposed changes to Contract Procedure Rules.

To conclude, the Chair on behalf of the Committee thanked Officers for the presentation of the reports and their attendance at the meeting.

A. RESOLVED it be noted that the drafting error at section B.14 of Financial Procedure Rules, be amended to read as '£250,000' and not '£250', as outlined.

B. RECOMMEND TO FULL COUNCIL TO APPROVE:-

(1) the proposed revisions to the Council's Constitution, as outlined within Appendices A to C to the report, subject to the following changes:-

(2) Part 4 – Section 4 – Executive Procedure Rules - 1.8 Quorum for a meeting of the Executive

Section 4 Executive Procedure Rules of Part 4 of the Constitution be amended as follows:-

The quorum for a meeting of the Executive shall be 3, including either the Mayor or Deputy Mayor; and

Where the Mayor and Deputy Mayor are not present at a meeting of the Executive, the quorum will be 4.

(3) Financial Procedure Rule C.17 – Asset Management

Financial Procedure Rule C.17 – Asset Management, be amended to reflect that the Council had a 'complete' register of all Council land and buildings.

CHAIR: _____

DATE: _____