



Chelmsford City Council Governance Committee

21 June 2023

Proposed Amendments to the Constitution

Report by:

Legal and Democratic Services Manager

Officer Contact:

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Purpose

To consider the recommendations of the Constitution Working Group in relation to proposed changes to the City Council's Constitution.

Recommendations

That, subject to any views the Cabinet might have, the Council be recommended to approve:

1. the amendments to the Constitution detailed in Appendix 1 to this report;
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1. Introduction

1.1. The Council's Constitution is reviewed at least annually to ensure that it remains complete, up to date and reflects current practice and legislation. Some Parts of the Constitution, such as the rules relating to meetings and officer delegations, are likely to need detailed review as they are more likely to be affected by changes to organisational practices and legislation. Other Parts only need periodic detailed examination as they tend not to change significantly over time.

1.2. The annual reviews are initiated by officers and their recommendations are submitted in the first instance to the Constitution Working Group. Its recommendations are then passed to the Governance Committee, the Cabinet (where appropriate) and finally Full Council. The annual review was reported to Governance Committee in March 2023 and will be reported to Cabinet before final consideration at Full Council in July 2023. Two further proposed changes have been initiated by officers since the annual review and in accordance with the Council's process have considered by the Constitution Working Group which met on 7th June 2023. .

1.3. The Governance Committee is asked to consider the following changes to the Constitution (full details of which are set out in Appendix 1):

- A new delegation in relation to neighbourhood planning referenda
- Modifications in relation to fees and charges.

2. Conclusion

2.1. The proposed amendments were unanimously supported by the cross party working group. All proposals will be referred to the Cabinet for its comments before being passed to Full Council in July 2023.

List of Appendices

Appendix 1 – Proposed amendments

Background papers:

Nil

Corporate Implications

Legal/Constitutional: These are set out in the report

Financial: None

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: None

Health and Safety: None

Digital: None

Other: None

Consultees: Constitution Working Group

Relevant Policies and Strategies:

None

APPENDIX 1 - TWO PROPOSED CHANGES TO CONSTITUTION

Item proposed for change	Current version in constitution	Changes proposed (tracked in red)
<p>1. Neighbourhood Planning Statutory Functions</p> <p>Proposal</p> <p>To add an officer delegation to enable the timely progress of statutory functions related to Neighbourhood Plans to take place.</p> <p>Background</p> <p>On 14 March 2023 Cabinet resolved that the statutory functions of considering examiner’s reports and recommendations for the six Neighbourhood Plans under preparation, including (where applicable) the decision to proceed to referendum be delegated to the Director of Sustainable Communities in consultation with the Cabinet Member for Sustainable Development.</p> <p>This has enabled the Council to be able to make decisions on whether Neighbourhood Plans should</p>	<p>Nothing currently in constitution</p>	<p>To add a new delegation to the Director of Sustainable Communities under paragraph 3.4.7</p> <p>All matters (including statutory functions) relating to the development and making of Neighbourhood Development Plans.</p>

proceed to referendum within the statutory 5 weeks of receiving an examiner's report.

Once a referendum has been held, the Council is required to 'make' (adopt) the plan if more than half of those voting in a referendum have voted in favour of the plan. For the two 'made' Neighbourhood Plans (South Woodham Ferrers and Writtle) this final decision was made by Full Council.

The Council must make the plans as soon as reasonably practicable after the referendum is held (The Planning and Compulsory Purchase Act 2004, Section 38A).

This is further clarified in The Neighbourhood Planning (General) Regulations 2012, which sets out at Regulation 18A the prescribed date for making a neighbourhood development plan as 'the date which is the last day of the period of 8 weeks beginning with the day immediately following that on which the last applicable referendum is held'.

Whilst the regulations state that a plan must be 'made' in these circumstances, it does not prescribe at what level the decision must be made.

It was fortunate that the timing of the referendums for the South Woodham Ferrers and Writtle

Neighbourhood Plans fell conveniently within the committee cycle so that the decision to make the plans could be taken by Full Council within the prescribed timeframe.

However, for forthcoming Neighbourhood Plans this may not be the case. For example, at Little Baddow the examiner's report has been received recommending that the plan be subject to a referendum. It would be natural to arrange this as soon as possible, to continue the momentum for the local community. However, due to the required timeframe to arrange a referendum there could be a gap of 4-5 months between the referendum and the following meeting of the Council in December.

There are some options potentially available:

- Delay a referendum to a date 8 weeks or less before the next planned Full Council meeting. However, this could be considered to be an unwarranted delay, and disrupt the momentum for the local community and the interest in voting in the referendum.
- Arrange one or more additional meetings of the Full Council to meet the required timeframe for making a plan as they arise. This may be considered to be an additional burden on Members and officers if meetings

<p>needed to be arranged to consider a single item of business.</p> <ul style="list-style-type: none"> Amend the Council’s constitution to allow the statutory functions of Neighbourhood Plan decision-making to be delegated to the Director of Sustainable Communities (in consultation with the appropriate Cabinet Member if appropriate). <p>This final option of changing the constitution is the preferred option recommended by officers.</p>		
<p>2. Change to fees and charges</p> <p>The following changes are being put forward by officers to re-align delegation levels with current financial limits (eg supplementary estimates). The changes also reflect current working practice and provide clarification. The separate identification of any increases over £200k for existing charges are designed to provide transparency to members within the formal budget approval process.</p>	<p>Existing Charges (<i>the budget guidelines approved annually by Council include a standard average rate of increase for fees and charges</i>)</p> <p>Work with Directors to set the average charges across a Directorate (as measured by price change or increase in yield) at that standard rate. If this is not possible then Council approval should be sought via Accountancy.</p> <p>There are specific delegations for fees and charges for major events</p>	<p>Fees and Charges amendments within the annual budget process. <i>The budget guidelines approved annually by Council include a standard assumption for the average increase (for financial planning), this is not intended to be the outcome increase for any charge. Increases in charges should be determined in the manner below:</i></p> <ul style="list-style-type: none"> The proposals for fees and charges will be determined by the Director in consultation with the responsible Cabinet member.

	<p>in parks and regulatory Licences elsewhere in the constitution.</p>	<ul style="list-style-type: none">ii. The fees and charges proposals will have determined after making any appropriate comparisons including other local authorities and private sector providers of similar services in the appropriate geographical area. This will include consideration of equalities.iii. The charges do not have to match the assumed percentage increase in the financial planning.iv. Annually by the end of October Directors will provide for budget planning draft proposals for increases in fees and charges for their service areas. <p>The Budget report made each January will identify separately the increase in total monetary value of fees and charges by service area (a service as set out in the annual budget report), where they generate any increase over £200k compared to the previous year's budget.</p>
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	<p>New Fees and Charges: Chief Executive and Directors, in consultation with the relevant Cabinet Member, can establish any new fees and charges for any service for which they are responsible, provided it is expected to generate no more than £50,000 in a full year; and where the annual income generated by the new charge is estimated to above £50,000 then approval will be required from Councillors as follows:</p> <ul style="list-style-type: none"> • £50K to £250K – Cabinet • Over £250K - Full Council 	<p>New Fees and Charges: Chief Executive and Directors, in consultation with the relevant Cabinet Member, can establish any new fees and charges for any service (as set out in the annual budget report) for which they are responsible, provided it is expected to generate no more than £50k£200k in a full year; and where the annual income generated by the new charge is estimated to above £50k£200k then approval will be required from Councillors as follows:</p> <ul style="list-style-type: none"> • £50k£200K to £250k1m – Cabinet • Over £250k£1m - Full Council
	<p>Amendments to Fees and Charges: Chief Executive and Directors, in consultation with the relevant Cabinet Member, can amend fees and charges for which they responsible, provided that across the Council any (all) amendments generate no more than £50,000 in a full year. Changes to Fees and Charges that would be above £50,000 in a full year, require approval as follows :</p> <ol style="list-style-type: none"> 1. £50K to £250K – Cabinet 	<p>Amendments to Fees and Charges: Chief Executive and Directors, in consultation with the relevant Cabinet Member, can amend fees and charges for which they responsible, provided that any service area (as set out in the annual budget report) amendments generate no more than £50k£200k in a full year. Changes to Fees and Charges that would be above in a full year, require approval as follows :</p> <ul style="list-style-type: none"> • £50k£200K to £250k1m – Cabinet

	2. Over £250K - Full Council	1. Over £250k £1m - Full Council
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