

Report Title: Review of the Council's Constitution

| | | | |
|-----------------------------|---|---------------------------|----|
| Date of meeting: | Audit and Governance Committee – 4 September 2024 Full Council – 12 September 2024 | | |
| Report to: | Audit and Governance Committee Full Council | | |
| Report of: | Executive Director – Corporate Services and Commercial | | |
| Portfolio: | Cabinet Member for Corporate Services | | |
| Wards affected: | All | | |
| Is this a key decision: | No | Included in Forward Plan: | No |
| Exempt/confidential report: | No | | |

Summary:

The report provides a number of recommendations and options for the Council's Constitution to be amended to reflect good practice and changes of arrangements within the Council.

Recommendation(s):

Audit and Governance Committee

- 1) To recommend to Council that the recommendations set out in paragraphs 2.4 (dates of Full Council meetings), 4.3 (motions), 5.5 (questions at Full Council) 6.2 (cabinet portfolios) , 7.1 (petition scheme) of the report be approved and 8.3 (Planning Committee).
- 2) To make recommendations to Full Council on the options described in paragraph 3.2 (Budget Council agenda).

Council

- 1) That the recommendations of the Audit and Governance Committee be approved.

1. The Rationale and Evidence for the Recommendations

- 1.1 Under the provisions of the Local Government Act 2000, local authorities must prepare a constitution and keep it up to date. The constitution must contain the authority's standing orders, the code of conduct for members and co-opted members and, other matters as prescribed by the Local Government Act 2000 (Constitutions) (England) Direction 2000.
- 1.2 The Council's Monitoring Officer has responsibility for ensuring that the constitution is fit for purpose and up to date. The constitution allows the Monitoring Officer to make legislative and any other necessary and urgent changes to the constitution and other changes should be presented to this committee for approval and recommendation to Council.
- 1.3 The Council's Monitoring Officer has undertaken an exercise to review the constitution compared to provisions in the constitutions of the local authorities in the Liverpool City Region (LCR) and also in relation to issues which have been raised at recent Full Council meetings.

2 The Number and Date of Full Council Meetings

- 2.1 Sefton has five ordinary meetings, one budget meeting and an Annual General Meeting (which is normally split in two parts) each municipal year. All the other LCR local authorities have four ordinary meetings, one budget meeting and an Annual General Meeting.
- 2.2 Sefton is the only local authority in the LCR that holds an ordinary meeting in April each municipal year. The Council's Monitoring Officer is mindful that in most years the April ordinary meeting falls within the 'purdah period' or more accurately the period of heightened sensitivity as far as publicity is concerned.
- 2.3 *The Code of Recommended Practice on Local Authority Publicity* states that local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections. Generally speaking, during the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. In general, local authorities should not issue any publicity which seeks to influence voters. There is a concern that holding a Full Council in this period and therefore, using Council resources may fall foul of this recommended practice.
- 2.4 The position across the LCR is summarised in the table below together with a recommended option for future meetings in the end column to align with best practice.
- 2.5 If members were minded to agree to the proposed changes they would take effect from April 2026.

| | <u>Sefton</u> | <u>Liverpool</u> | <u>Knowsley</u> | <u>St. Helens</u> | <u>Wirral</u> | Proposed For Sefton |
|--------------|---------------|------------------|-----------------|-------------------|---------------|--------------------------------|
| Jan | X | | X | X | | |
| Feb | X - Budget | X | | | X - Budget | X - Budget |
| Marc | | X - Budget | X – Budget X | X - Budget | X | X |
| April | X | | | | | |
| May | X - AGM | X - AGM | X- AGM | X - AGM | X - AGM | X - AGM |
| June | | | | | | |
| July | X | X | X | X | X | X |
| Aug | | | | | | |
| Sept | X | X | | X | | X |
| Oct | | | X | | X | |
| Nov | X | X | | X | | X |
| Dec | | | | | X | |

3 Budget Council

3.1 Upon reviewing the agendas for Budget Council meetings across the LCR it was noted that Liverpool City Council limit the agenda items for budget meetings so that the only business transacted at the budget meeting will be:

- The setting of the Council Tax for the following year
- The setting of the Council's budget and related decisions determined by the Council's S.151 Officer
- If it is the final meeting before the end of the financial year, any decisions that are required by law to be made by Full Council, and
- Any business agreed by the Mayor following advice from the Monitoring Officer.

3.2 Members are asked to consider whether Sefton's budget meeting agenda should be changed to mirror the above or remain the same.

4 Motions

4.1 Whilst it has become custom and practice for amendments to motions to be put in writing and advance notice being given to the Chief Legal and Democratic Officer (and a template being utilised) this is not stipulated in the constitution and in recent meetings there a has

been some confusion with handwritten amendments being presented to the Mayor during debates on motions.

- 4.2 A review of the LCR local authority constitutions shows different approaches to amendments. Wirral Council require 3 days' notice of amendments and Liverpool City Council require 2 days' notice.
- 4.3 It is recommended that the constitution be amended to provide that notice of an amendment must be put in writing and submitted to the Chief Legal and Democratic Officer no later than 12 noon on the Tuesday before the Thursday Full Council meeting. This will allow the Chief Legal and Democratic Officer time to consider whether the proposed amendment is a valid amendment and liaise with the mover of the amendment as necessary and to allow time for copies of the proposed amendment to be made to distribute around the Council chamber at the appropriate time. For budget council any budget amendments should also be received by 12 noon on the Tuesday before the Thursday meeting with the amendment having been approved before this time by the Council's Section 151 Officer.

5 Questions

- 5.1 A review of the LCR local authorities' constitutions concerning questions from members at Full Council shows that practice varies considerably. For example, Liverpool City Council only allow each political group to submit two questions and notice must be given 12 noon, 7 clear working days before the day of the meeting., Knowsley Council do not allow supplementary questions, and St. Helens only allow each member to ask only one question.
- 5.2 Members will be aware that Sefton's constitution provides for:
- No maximum number of questions
 - Supplementary question may be asked to each question
 - 30 Minutes allowed to deal with all questions
 - Notice – 12 noon 2 clear working days before meeting
 - Questions must relate to a matter to which the Council has powers or duties or which affect Sefton.
- 5.3 At recent Full Council meetings a number of questions have been asked, some of which are quite detailed requiring officers and members to spend a considerable amount of time in a short space of time to compile responses. It is also not uncommon for a question to be asked which contains several sub questions.
- 5.4 An analysis of questions and sub questions at recent Council meetings shows the following:

| <u>Date of Full Council</u> | <u>Substantive Questions</u> | <u>Sub Questions</u> |
|-----------------------------|------------------------------|----------------------|
| 11 July 2024 | 8 | 10 |
| 18 April 2024 | 12 | 10 |
| 18 January 2024 | 13 | 25 |
| 16 November 2023 | 11 | 11 |
| 14 September 2023 | 24 | 18 |

5.5 It is recommended that the constitution be amend to provide for questions from members to be received by 12 noon at least 5 clear days before Full Council and that there are no sub questions. Therefore, if Full Council is held on a Thursday the questions must be received by 12noon on the Thursday before.

6 Cabinet Portfolios

6.1 Members will be aware that following the local elections in May 2024 the Leader of the Council formed a Cabinet comprising the following:

| | |
|---|--|
| Cabinet Portfolio | |
| Leader of the Council | |
| Cabinet Member – Adult Social Care and Health and Deputy Leader | |
| Cabinet Member - Children Schools and Families | |
| Cabinet Member - Cleansing and Street Scene | |
| Cabinet Member - Communities and Partnership Engagement | |
| Cabinet Member - Corporate Services | |
| Cabinet Member - Housing and Highways | |
| Cabinet Member - Public Health and Wellbeing | |
| Cabinet Member – Regeneration, Economy and Skills and Deputy Leader | |

6.2 Permission is sought to make appropriate changes to the Constitution to reflect the changes in the Cabinet and for permission be given to the Council’s Monitoring Officer to make similar changes in the future should the composition of the Cabinet change without the need to seek Full Council approval beforehand. This will ensure the Constitution accurately reflects the position wit the Cabinet in a timelier manner.

7 Petitions

7.1 Provisions relating to petitions from members of the public are contained in a number of places in the Constitution and it is recommended that they be consolidated into one section of the Constitution as per the attached **Petition Scheme**. This should make it easier for members of the public to understand the provisions and participate in the democratic process.

8 Planning Committee

8.1 Currently, Chapter 7, s. 22 a) of the constitution requires the following applications to be reported to Planning Committee:

“ major planning applications which are the subject of five or more representations on planning grounds (Section 70 of the Town and Country Planning Act 1990), except where the application is being recommended for determination by officers in line with those representations”

The intention of this is so applications are not brought to Committee where, for example:

1. five or more representations are in favour and it is proposed to approve the scheme, or where
2. five or more representations are opposed to the scheme and it is proposed to refuse the scheme.

That is, “those representations” align with the decision it is proposed to make.

8.2 There has been a recent case where there were seven representations in total of which four were in support of the proposal. The proponent of the scheme argued that the officer determination to refuse the application wasn't in line with the representations and so the decision was not made in line with the constitution.

8.3 In order to avoid this confusion it is recommended that an addition be made as outlined below (*in italics*) to that section to make it clear that applications which have fewer than 5 representations either for or against will not be reported to Planning Committee. However, if schemes have more than 5 representations for or more than 5 representations against, they will be brought to Planning Committee except where the application is being recommended for determination by officers in line with those representations.

Chapter 7, s. 22 a):-

major planning applications which are the subject of five or more representations *in favour of the application, and / or five or more representations opposing the application* on planning grounds (Section 70 of the Town and Country Planning Act 1990), except where the application is being recommended for determination by officers in line with those representations.

9. Financial Implications

None directly from the report.

10. Legal Implications

Under the provisions of the Local Government Act 2000, local authorities must prepare a constitution and keep it up to date

11. Risk Implications

None directly from the report.

12. Staffing HR Implications

None directly from the report.

13. Conclusion

12.1 Members are asked to consider the report and make appropriate recommendations to Full Council in order for the Council's Constitution to be for purpose and reflect circumstances within the Council.

Alternative Options Considered and Rejected: Not to review the Council's Constitution would be contrary to statutory requirements.

Equality Implications:

There are no equality implications.

Impact on Children and Young People:

None directly from the report.

Climate Emergency Implications:

The recommendations within this report will have a neutral impact.

What consultations have taken place on the proposals and when?**(A) Internal Consultations**

The Executive Director of Corporate Services and Commercial (FD.7732/24) and the Chief Legal and Democratic Officer is the author of the report

(B) External Consultations

None

Implementation Date for the Decision:

Immediately following the Committee and Full Council meeting.

| | |
|-------------------|--------------------------------|
| Contact Officer: | David McCullough |
| Telephone Number: | 079730 297719 |
| Email Address: | david.mccullough@sefton.gov.uk |

Appendices:

- Draft Petition Scheme

Background Papers: None