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Angela Hutchings
Chief Executive

AGENDA

Committee: SCRUTINY

Date and Time: Thursday, 30th November 2023, at 7.00pm

Venue: Council Chamber, Council Offices

Membership: Councillors Isaacs(Chairman),Bowker, Edwards, Egan, Harvey, Jones, Thomas ,J.Thornton.

Officers attending:
Angela Hutchings - Chief Executive
Jason Bishop - Monitoring Officer
Ann Horgan - Head of Governance

Enquiries: Ann Horgan , ext. 2413

PART I (Business to be taken in public)

1. Apologies

2. Members' Interests

3. Minutes

A copy of the Minutes of the meetings held on 11 September and 8 November are attached.

4. Review of New Constitution

Scrutiny Committee has been tasked by Council to review the proposed new Constitution before consideration and approval by Council and implementation with the new Council administration in 2024. A report is attached.



SCRUTINY COMMITTEE MINUTES

11th September 2023

PRESENT: Councillors Isaacs (Chair), Bowker, Edwards, Egan, Jones, J Thornton and Thomas.

Officers: Ms Amanda Parrott – Planning Policy Manager, Ann Horgan – Head of Governance.

APOLOGIES: Councillor Harvey.

1. MEMBERS' INTERESTS

There were no disclosures of interest.

2. COMMUNITY INFRASTRUCTURE LEVY(CIL) GOVERNANCE ARRANGEMENTS

The Committee had been tasked by Council, in approving CIL for submission in February 2023, to review the proposed governance arrangements before consideration and approval by Cabinet.

The Council commenced charging of CIL from 1st May 2023 on developments approved since that date. CIL was payable upon the commencement of development. At this time very few developments had been approved and commenced and only some £900 of CIL income had been received. There was therefore time to put in place governance arrangements for CIL whilst income grows to a level where infrastructure projects could be funded.

CIL income must be spent in accordance with the CIL Regulations and was ringfenced from other sources of income.

The Council had been working with consultants from DAC Planning to implement a company supporting several local authorities across the country in the implementation of CIL.

In conjunction with officers of the Council the consultants from DAC Planning had prepared a report setting out proposed arrangements for establishing spend prioritisation and governance of CIL spending. The report and supporting papers set out in Appendices 1,2 & 3 set out the proposed arrangements which were examined following a presentation from the Planning Policy Manager.

The Committee was reminded of the difference between Section 106 & CIL Developer contributions.

CIL could only be spent on the following:

- i. fund the provision, improvement, replacement, operation or maintenance of infrastructure to support the development of its area;
- ii. the provision, improvement, replacement, operation or maintenance of infrastructure outside its area where to do so would support the development of its area.

The report at Appendix 1 recommended governance arrangements for the prioritisation of infrastructure projects and for the spending of CIL. This included the preparation of a CIL Spending Plan to cover a three-year period to be effective from 2025/2026.

The methodology for preparing the Spending Plan was dealt with in Appendix 2 and Appendix 3 set out the timeline and governance processes including consultation.

Members attention was drawn to the amount of CIL which could be available to support infrastructure projects. This would require monitoring. CIL funding was divided into three pots with 5% reserved for administration, 15% on Neighbourhood Portion under this pot 15% of CIL receipts capped at £100 per Council Tax dwelling on development on Canvey Island must be passed to Canvey Town Council.

For the remaining 80% guidance directed that the community be engaged in how to spend the remaining portion.

Members role in the governance processes was highlighted. The Scrutiny committee was to review the Spending Plan before approval by Cabinet in October.

The Committee suggested that the Scrutiny Committee should consider the initial proposals for the Spending Plan in April following the outcome of consultation. Members suggested that there should be member involvement in the officer working group.

With regard to community engagement, Members welcomed the opportunity and wished to see wide engagement suggesting that community organisations including youth and the elderly should be involved .

Resolved:

1. To recommend to Cabinet to support the proposed governance processes for the administration of CIL subject to the amendments identified at the meeting.

Chairman



SCRUTINY COMMITTEE MINUTES

8th November 2023

PRESENT: Councillors Isaacs (Chair), Bowker, Edwards, Egan, Jones, J Thornton

ALSO PRESENT: Councillors Savage and A. Thornton

Officers: Ms Angela Hutchings, Ann Horgan – Head of Governance.

APOLOGIES: Councillor Harvey, Thomas.

3. MEMBERS' INTERESTS

There were no disclosures of interest.

4. REVIEW OF NEW CONSTITUTION

The Committee had been tasked by Council to review the proposed new Constitution before consideration and approval by Council and implementation with the new administration in 2024.

A report was before the Committee outlining the new draft Constitution and the Committee had received copies of the first two chapters for review.

Following a briefing members of Scrutiny provided feedback to the Political groups and matters were identified within the current constitution which Members would wish to see addressed. This feedback was to be incorporated in the review.

The Committee was of the view that this initial review would be more effective though a workshop to take place that evening with a formal meeting to be convened to complete the review date to be confirmed.

Resolved:

To adjourn the meeting to enable a workshop to take place to commence the review of the new Constitution and to reconvene the Committee to complete the review on a date to be confirmed.

Chairman

SCRUTINY COMMITTEE

29th November 2023

Subject: Review of the New Constitution

1. Purpose of Report

- 1.1 The Committee is asked to formally consider its findings and make recommendations to Cabinet on the proposed new Constitution.

2. Background

- 2.1 At the last meeting of the Committee consideration was deferred to convene a workshop to undertake a review of the draft Constitution.

3. Present Position

- 3.1 A briefing note was prepared and circulated following the workshop in advance of this meeting to assist the Committee in formal consideration of its findings.

4. Proposals

- 4.1 The Committee is requested to consider the briefing note attached as Appendix 1 to review and formally consider its findings and recommendations to Cabinet. Draft recommendations are highlighted in the note to assist the Committee's deliberations.

5. Corporate Implications

(a) Financial Implications

- 5.1 Section 151 Officer is reviewing the Financial Procedures Article 16.

(b) Legal Implications

- 5.2 It is a requirement of the Local Government Act 2000 as amended that the Council publishes and maintains a formal document setting out the constitutional and governance arrangements for the Council.

(c) Human Resources and Equality Implications

Human Resources

5.3 There are none to be addressed by this report.

Equality Implications

5.4 An Equality Impact Assessment is not required.

(d) IT and Asset Management Implications

5.5 It is intended that once approved the Constitution will be available in a more user-friendly format.

6. Links to Council's Priorities and Objectives

6.1 An effective Constitution supports all the Council's priorities.

7. Timescale for Implementation and Risk Factors

7.1 It is intended that the review will be completed and the new Constitution in place for the new Council administration in May 2024.

Recommendation

To consider and make recommendations to Cabinet on the proposed new Constitution.

Resolution Required

Background Papers

Constitution November 2022.

Draft Chapter 1 & 2.

Report Author: Ann Horgan Head of Governance

BRIEFING NOTE BY THE CHIEF EXECUTIVE TO SCRUTINY COMMITTEE

9 November 2023

Introduction

1. Cabinet proposes to bring a refreshed version of the Constitution to Council for adoption. Council has requested that the Scrutiny Committee (the “Committee”) pre-scrutinise the draft documentation before final versions are presented to a meeting of full Council for decision.
2. The Committee held informal workshops/meetings on 9 October, 25 October and 7 November to discuss. A formal meeting of the Committee was convened on 8 November 2023, at which it was resolved that a further informal workshop be held, following the close of that meeting. As a result of this final workshop, this note has been produced.
3. The Committee was in favour of an overhaul of the Constitution and was, in general, supportive of the work which had been done and the proposals put forward by the Cabinet. References to the agreement of the Committee in this note means agreement in principle – no formal decision or agreement of the Committee has yet been made.
4. The Committee has, to date, had sight of Chapters 1 and 2 only which is where the major changes are being made. Chapters 3 and 4 are Codes and Schemes and delegations – this is functional, technical drafting which is intended to be improved for clarity and understanding.
5. The timetable for this piece of work is as follows:
 - a. Formal Scrutiny Committee meeting on 30 November 2023 for the Committee to consider its recommendations to Cabinet;
 - b. Chair of the Committee to informally brief Cabinet w/c 4 December 2023;
 - c. Publication of the Committee’s findings and recommendations as a report to Cabinet on 12 December 2023;
 - d. Chair of the Committee to attend Cabinet meeting on 20 December 2023 to present the report;
 - e. All member briefing in early January 2023 (date tbc);
 - f. Presentation of final version of the Constitution to full Council on 31 January 2024;

- g. Preparatory work for member training and implementation of the new Constitution to take effect from the beginning of the new municipal year/Annual Council.

“Strong Leader” model

- 6. The Committee acknowledged that the elements of the drafting which gave effect to the Strong Leader model of governance were necessary to bring the Constitution into line with the provisions of the Local Government Act 2000 (as amended by the Localism Act 2011) and the way that other authorities with executive arrangements operate.
- 7. Accordingly, the Committee endorsed the following provisions in Chapters 1 and 2 of the draft Constitution (attached as Appendix 1 and 2 respectively):
 - a. Financial and administrative delegations to be made to Cabinet members to exercise under a new governance process which enables Cabinet members to exercise delegated powers outside of formal Cabinet meetings. The detailed drafting will still need to be reviewed for clarity and understanding;
 - b. That the Leader is appointed for a 4 year term from the majority group or where there is no majority is appointed by Council. The drafting sets out their role and responsibilities and grounds for early termination are also set out;
 - c. That the Deputy Leader is appointed by the Leader with additional clarity around role and responsibilities laid out; and
 - d. Duties and responsibilities of the Cabinet members and how changes can be made in-year.

Suggested recommendation: The Committee endorses the overall approach of the review of the Constitution to reflect the Strong Leader form of governance.

Role of scrutiny

- 8. The Committee was clear that the role of scrutiny required improvement in order to perform the checks and balances required.
- 9. The Committee agreed with the proposals set out in Article 9, namely that there should be one Overview & Scrutiny Committee (“OSC”) but proposed that it should comprise 15 members instead of the suggested 11 members. It was noted that the OSC will be politically balanced.
- 10. Initially the Committee had concerns that replacement of the existing Policy and Scrutiny Committees (“PSCs”) with task and finish groups would reduce inclusion of members in the scrutiny function. The Committee considered whether the existing PSCs should be retained but formalised as sub-

committees of OSC. Following detailed debate, the Committee agreed with the provisions of paragraph 17 of Chapter 2 of the draft Constitution which set out the procedure rules for OSC and was satisfied that the flexibility of the task and finish groups would fit better with a co-ordinating function of OSC, to deliver against the work programme agreed between the Chair of the Committee and the Leader of the Council. The ability of OSC to determine the terms of reference and composition of task and finish groups gave the Committee comfort that participation in task and finish groups would enable members with particular expertise or interest to contribute to those areas of scrutiny which are within their field of experience, thereby increasing the effectiveness of the overall scrutiny function.

11. The Committee agreed that there should be a standing sub-committee of OSC dedicated to Climate Action to reflect the importance of this subject.
12. The Committee also agreed with the provisions of Article 17 – OSC Procedure Rules and the proposal for a new informal procedure to enable resolution of the issue without formal call-in. This reflects best practice.

Suggested recommendation: The Committee endorses the overall approach of the review of the Constitution to reflect improved arrangements to the overview and scrutiny framework and, in particular, to establish an enhanced Overview & Scrutiny Committee that will provide an effective check and balance to the Strong Leader arrangements but would recommend membership of the Overview & Scrutiny Committee be increased to 15 members (politically balanced).

Other committees

13. The Committee agreed with the proposal to create a standing sub-committee of the Licensing Committee to purely deal with driver matters. This will be called the “Drivers’ Panel”. It was noted that this does not prevent the standing up of an ad hoc Licensing Sub-Committee e.g. for a police review of a premises licence.
14. The Committee agreed that additional drafting required by law should be added to reflect how the Staff Appointments and Review Panel will act as an investigation and disciplinary committee.
15. The Committee agreed that the Audit Committee be re-styled “Audit and Governance” and its terms of reference extended to place more emphasis on risk management and the robustness of the corporate governance framework.
16. The Committee agreed that the Review Committee be re-styled “Standards Committee” dealing with conduct matters as currently but also terms of reference extended to cover oversight and review of member induction training and the member training programme. It will be a standing committee.

Suggested recommendation: The Committee endorses the overall approach of the review of the Constitution to reflect improved arrangements for committees.

Council Procedure Rules

17. The Committee reviewed proposed changes to the Council Procedure Rules in Chapter 2 of the draft Constitution.
18. The Committee was in favour of limiting meetings to 2 hours rather than the 3 hours proposed, provided that the drafting made clear that this rule could be suspended by a majority vote of members if the meeting needed to continue.
19. The Committee did not agree with the proposal to limit the number of public questions to be taken at a meeting of full council. There was a clear acknowledgement that whilst it was important to ensure that the agenda was robustly managed so that council business could be transacted, that the public question period should not be limited.
20. The Committee did agree that there should be a new opportunity for Chairs of committees to speak to full Council on key issues about the work of their committee which need to be brought to the attention of Council provided that this was on notice to the Chief Executive and with the agreement of the Mayor (to enable agenda management).
21. The Committee agreed with the proposal that the Mayor's powers to change the order of the agenda be made explicit.
22. Subsequent to the meeting on 8 November 2023, a further four points on which the Committee's views are sought as part of this work. Please see paragraph 12 of Chapter 2:
 - a. A proposed change to limit the number of public questions asked at full council to one per member of the public (currently is two);
 - b. The time limit in which questions previously asked can be asked again, is proposed to be reduced from 2 years to 6 months, to bring it in line with the statutory decision making moratorium, hopefully this is not contentious;
 - c. A maximum of 5 Motions on Notice is proposed for the purposes of agenda management – members' thoughts on this will be very valuable;
 - d. A new requirement that Motions on Notice should be supported by the proposer, seconder and 3 other supporters rather than just proposer and seconder, to improve quality of debate and use of time, recognising that this may be an issue if a small party and there is no cross party support.

Suggested recommendation(s): The Committee endorses the overall approach of the review of the Constitution to reflect improved clarity of the Council's Procedure Rules but recommends that:

- (a) Provisions relating to the asking of public questions remains as per the current arrangements [but we agree that the number of questions to be asked should be limited to one per questioner];*
- (b) [whatever your recommendations are in relation to reduction of the time limit]*
- (c) [whatever your recommendations are in relation to Motions on Notice]*

Cabinet Procedure Rules

23. The Committee agreed with the proposals put forward by Cabinet:

- a. To amend the current requirement to meet monthly to a minimum of 6 times per municipal calendar to give flexibility, in line with other councils;
- b. To improve drafting to aid understanding and provide clarity;
- c. That the Budget and Policy Framework will go to OSC for pre-scrutiny before coming to Cabinet and thereafter to Council. This is best practice but will require some practical changes to ensure sufficient time in the municipal calendar; and
- d. To replace current provisions for visiting members to ask questions on Cabinet agenda items with a new process which would mean one question (not a statement), per visiting member, per agenda item, in writing on notice with one oral supplementary question as an extension of or arising from the original written question.

Suggested recommendation(s): The Committee endorses the overall approach of the review of the Constitution to reflect improved clarity of the Cabinet Procedure Rules.

Other points made by Committee

24. In their review of this work, the Committee also considered other improvements which might be made to the Constitution which it would like to bring to the attention of the Cabinet:

- a. To create a service standard (which sits outside of the Constitution) to enable circulation of minutes of meetings to members within 7 working days of that meeting. Amendments would still fall to be made at the next meeting of the Committee (as this is a legal requirement) but early circulation whilst memories are fresh will improve accuracy as comments can be fed back to officers in a timely fashion. The current service standard is 10 working days, so the Committee acknowledges that there may be resourcing implications which Cabinet needs to take into account;

Suggested recommendation(s): The Committee recommends that the Cabinet consider implementation of a service standard to enable circulation of minutes of meetings to members within a timely period following that meeting.

- b. That the constitutional arrangements for the operation of Development Management Committee be subject to a separate review by the Committee in consultation with the Chair and members of the Development Management Committee (DMC) and the Planning Advisory Service (PAS). This follows on from the original PAS review which in its list of recommended actions, suggested that such a follow-on review should be undertaken.

Suggested recommendation(s): The Committee recommends that the Cabinet commissions a review of the constitutional arrangements for the operation of Development Management Committee.