

Report to Governance Committee

11 March 2024

Revisions to the Constitution

Report by Director of Law and Assurance

Electoral divisions: Not applicable.

Summary

The Governance Committee is asked to agree some minor changes to the Constitution for referral to the County Council for approval. These are to formalise current expectations relating to the mandatory training requirements for the members of certain panels and committees, as recommended by the Member Development Group. In addition, two revisions are proposed to the terms of reference of this Committee and of the Health Overview and Scrutiny Committee, to ensure these are in line with current practice and recent legislative changes.

Recommendations

That the County Council be recommended to approve the changes to the Constitution set out in paragraphs 2.1, 2.3 and 2.4.

Proposal

1 Background and context

- 1.1 Approval to change most parts of the Constitution is reserved to the County Council itself, on the recommendation of the Governance or Standards Committees. The Director of Law and Assurance has authority to revise certain parts. This report sets out three proposed revisions to the Constitution.
- 1.2 Some Council committees require a particular level of training to ensure their members take sound decisions and have a thorough understanding of their responsibilities. Training is generally understood to be a requirement for the Appeals Panel, Fostering Panel, Pensions Committee and Planning and Rights of Way Committee but this is not included in the Constitution. The Member Development Group (MDG) has considered this as part of a review of training requirements for all members. It recommends that these panels/committees' terms of reference be revised to include that members be required to undertake certain mandatory training (and as set out in the table at paragraph 2.2).
- 1.3 The Health and Care Act 2022 makes several changes to how local authorities engage with the NHS. One of these relates to the health scrutiny function, with the removal of the power to refer proposals for the substantial reconfiguration of NHS services to the Secretary of State. Whilst the NHS is still required to

consult on such proposals, the committee that fulfils the health scrutiny function may now only write to the Secretary of State to request that proposals be called-in. The Department of Health and Social Care expects these requests only to be used in exceptional situations where local resolution has not been reached. It is therefore necessary to amend the terms of reference of the Council's Health and Adult Social Care Scrutiny Committee.

- 1.4 The Governance Committee's terms of reference include that it should receive a report on staffing matters twice a year from the Chief Executive or Director of Human Resources and Organisational Development. This was added in 2017 to cover any updates on general staffing matters, including as raised through officer liaison with trades unions. Since that time the Council's Performance and Resources report has been introduced, providing detailed workforce information for consideration by Cabinet and each scrutiny committee on a quarterly basis. The Committee has therefore not received these reports and, to avoid any duplication, it is proposed that this be removed from the Committee's terms of reference. The Committee continues to play an important role in staffing policy matters, including receiving an annual report on Staff Appeals and reviewing the Staff Pay Policy annually.

2 Proposal details

- 2.1 As recommended by the MDG, it is proposed that the following statement be included in the terms of reference of the Appeals Panel, Fostering Panel, Pensions Committee and Planning and Rights of Way Committee (in Part 3 of the Constitution):
- Members of this Committee are required to undertake training as specified by the relevant Director or lead service officer, prior to being able to take part in meetings of the Committee.
- 2.2 This requirement will apply to all committee members, including any co-opted members. The current training requirements for each panel/committee are set out below (but will not be included in the Constitution, to allow the flexibility for these to be revised, in consultation with the relevant panel/committee chair). It should be noted in particular that the functions of the County Council's Planning and Rights of Way Committee are very different from those of a district or borough council and familiarity with such a committee as a member of such a Council will not suffice.

Panel or Committee	Mandatory training requirement
Appeals Panel	To be completed prior to taking part in any meetings: <ul style="list-style-type: none"> • Staff Dismissal Appeal Process • Staff Grievance Appeal Process • School Transport Appeal Process
Foster Panel	To be completed prior to taking part in any meetings, with at least one day refresher training per year: <ul style="list-style-type: none"> • Fostering Process and role of the Foster Panel • Observation of a Foster Panel meeting

Panel or Committee	Mandatory training requirement
Pensions Committee	<p>To acquire and maintain an appropriate level of knowledge and understanding in compliance with the Fund Training Strategy. Induction training with officers should be completed prior to taking part in meetings. Areas of knowledge and understanding currently include:</p> <ul style="list-style-type: none"> • Pensions Legislation • Public Sector Pension Scheme governance • Financial markets and pension fund investments • Pension Fund operation and administration • Actuarial methods, standards and practices • Procurement and relationship management
Planning and Rights of Way Committee	<p>Training to be provided by officers in relation to:</p> <ul style="list-style-type: none"> • Role and Operation of the Committee, including member interests • Background to the Planning System • Waste and Minerals Planning • Planning applications process • Determining Planning Applications • Definitive Map Modification Orders • Town and Village Green applications • Public path creations, diversions and extinguishments and any relevant legislation

2.3 To ensure the Council's health scrutiny processes are in line with legislative requirements, it is proposed that the Health and Adult Social Care Scrutiny Committee's terms of reference be revised as follows:

- To discharge the statutory Health Scrutiny functions (~~including power of referral~~) on behalf of the County Council.

2.4 To reflect current practice on reporting workforce information to members, it is proposed that the following paragraph be removed from the Governance Committee's terms of reference:

- To receive a report on staffing matters twice a year from the Chief Executive or Director of Human Resources and Organisational Development.

3 Other options considered (and reasons for not proposing)

3.1 If left unamended, the Constitution would not reflect current practice and legislative requirements.

4 Consultation, engagement and advice

4.1 Service lead officers responsible for the panels and committees referred to have been consulted on the training requirements for members. MDG has been consulted on proposals for mandatory training requirements. Members of the Health and Adult Social Care Scrutiny Committee have been advised of the change in legislation relating to the health scrutiny power of referral.

5 Finance

5.1 There are no revenue or capital finance implications.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
That the Constitution becomes out of date or inconsistent with practice	Regular review of this nature keeps the Constitution up to date and consistent with practice
Decision-making is not sound or legal	The requirement for mandatory training to be undertaken by members of certain non-Executive decision-making committees and panels.

7 Policy alignment and compliance

Keeping the Constitution under regular review is aligned to the aim of the Local Government Act 2000 that Constitutions should evolve and be regularly reviewed to ensure that it is a transparent and up to date document. Strengthening the provisions of the Constitution should serve to maintain high standards of decision-making.

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Background papers

None