

Constitution amendments

Report number:	COU/WS/21/010	
Report to and dates:	Constitution Review Group	10 May 2021
	Council	22 June 2021
Cabinet member:	Councillor Carol Bull Portfolio Holder for Governance Telephone: 01953 681513 Email: carol.bull@westsuffolk.gov.uk	
Lead officer:	Leah Mickleborough Service Manager (Democratic Services) and Monitoring Officer Telephone: 01284 757162 Email: leah.mickleborough@westsuffolk.gov.uk	

Decisions Plan: **Not applicable as this is not an executive matter**

Wards impacted: **None**

Recommendation: **It is recommended that Council APPROVES:**

- 1. the amendment to the Officer Appointments Committee and the creation of an Independent Panel, as attached at Appendix 1 to Report number: COU/WS/21/010.**
- 2. The amendments to the Officer Code of Conduct, as attached at Appendix 2.**
- 3. The amendments to the Budget and Policy Framework Procedure Rules, as set out in section 4 of Report number: COU/WS/21/010.**

1. Background

- 1.1 The Constitution Review Group is appointed by Council to consider proposed changes to the Constitution. At its meeting on 10 May 2021, the Group met to consider a number of proposed changes, and recommends these to Council, as follows:

2. Officer appointments procedures

- 2.1 In 2015, the Government issued regulations requiring authorities to put in place specific procedures in the event it wished to dismiss its statutory officers (the Head of Paid Service – or Chief Executive, the s.151 Officer – or senior finance officer, and the Monitoring Officer). The regulations were designed to ensure that authorities could not unfairly dismiss statutory officers to stop them reporting unlawful acts or other public interest matters.
- 2.2 The regulations require that where the Council is considering dismissing a statutory officer, a panel is convened, including at least two independent persons, to review the case and recommend an outcome to Council. If the statutory officer is unhappy with the outcome, they should have a right of appeal.
- 2.3 Within West Suffolk Council, we have set up a structure that reflects the regulations. However, the Joint Negotiating Committee (JNC), who establish the terms of reference for employment of Chief Executives have recently clarified that their terms require that all councils should create a separate Independent Panel, that would consider dismissals against the Chief Executive, rather than the independent persons forming part of a member panel. As the JNC have noted, “a number” of authorities have not set up their arrangements this way.
- 2.4 Therefore, to be compliant with both the regulations and the Chief Executive terms of employment, we need to establish the Independent Panel solely to consider dismissal cases against the Chief Executive, whilst making amendments to the existing Officer Appointments Committee terms of references in respect of both the Independent Panel and arrangements for the other statutory officers. Proposed revised terms of reference are included at Appendix 1.

3. Amendments to the Code of Conduct for employees

- 3.1 Each year, a very small number of officers are offered gifts or hospitality. In accordance with guidance, these offers are usually refused in the first instance unless it would genuinely cause offence but there are a very small number of cases which are accepted.

- 3.2 The Code of Conduct requires that each service Director keeps a record of gifts and hospitality offered. Each January, the Chief Executive inspects the records, and then in April they are also provided to the Service Manager – Internal Audit.
- 3.3 For the relatively low number of instances each year, a recent audit review highlighted that this process could be made more efficient if a register was maintained by the Monitoring Officer, and inspected once annually by the Chief Executive and Service Manager – Internal Audit. Directors would still be required to determine whether an offer should be accepted or not.
- 3.4 As a result, changes to the Code of Conduct for Employees are proposed in Appendix 2.

4. Budget and policy framework procedure rules

- 4.1 At the recent budget-setting Council meeting held in February 2021, there was some debate about amendments to the budget. At present, the Constitution makes clear that members are welcome to submit amendments, and that “All potential amendments to the budget must be assessed for their financial implications prior to the Council meeting to comply with Financial Procedures. To avoid any problems arising from this requirement, all proposed amendments to the budget will therefore be notified in advance to the Chief Executive and section 151 Officer.”
- 4.2 In light of the debate at Council, officers have reviewed the procedures and whilst we are satisfied there is a clear opportunity for members to raise amendments, to aid clarity it is suggested that the Procedure Rules are amended so that proposed amendments to the budget must be notified to the Chief Executive and section 151 Officer “at least 5 clear working days before the Council meeting” to ensure there is time for the section 151 Officer to ensure proposals are robust and can still deliver a balanced budget.

5. Implications arising from this report

- 5.1 There are no direct implications arising from this report

6. Appendices referenced in this report

- 6.1 **Appendix 1** – terms of reference for Officer Appointments Committee and Independent Panel
- 6.2 **Appendix 2** – revised section 14.3 and 14.4 of the Code of Conduct for Employees