

Committee: Council

Date: 16 September 2020

Wards: All

Subject: Amendments to the Constitution

Lead officer: Louise Round

Lead member: Councillor Mark Allison

Contact officer: Louise Round

Recommendations:

- A. To note that the Scheme of Delegation to the Chief Executive set out in Part 3E of the Constitution will be amended to reflect the decision of the Cabinet on 7 September 2020 to delegate authority to implement the local lockdown provisions set out in The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750 to the Chief Executive;
 - B. To approve the amended Terms of Reference for the Appointments Committee and Officer Employment Procedure Rules, as set out in Appendices A and B respectively;
 - C. To delegate authority to the Monitoring Officer to amend the Council's constitution to incorporate any direct or consequential changes resulting from the approval of recommendation B above; and
 - D. To note that the Standards and General Purposes Committee agreed at its meeting on 23 July 2020 to commence a review of the Council's constitution and to appoint a working group of members to carry out that review in conjunction with the Monitoring Officer, with a view to reporting back to Council in February 2021.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report updates Council on some changes made by Cabinet to its scheme of delegation to the Chief Executive and also contains recommendations from the Standards and General Purposes Committee for some amendments to the constitutional provisions relating to the appointment of senior officers.

2 DETAILS

- 2.1. The Government has recently introduced new regulations contained in The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750
- 2.2. These new Regulations contain executive powers for local authorities to implement local lockdown measures for the protection of public health in respect of Covid-19 outbreaks.

- 2.3. There is no specific delegation to the Chief Executive to exercise these powers and accordingly the Cabinet agreed, for the avoidance of doubt, to delegate authority to exercise the powers contained in the Regulations to the Chief Executive. The scheme of delegation contained in the Part 3E of the Constitution will therefore be amended specifically to include reference to these executive powers. Council is asked to note that the following words will be added to section B, page 54 of the constitution after paragraph 1:

“For the avoidance of doubt, this includes all executive powers conferred by the Health Protection (Coronavirus Restrictions) (England) (No.3) Regulations 2020, including any future amended or replacement regulations relating to the protection of public health in respect of Covid-19 outbreaks and local lockdown restrictions”

- 2.4. At its meeting on 23 July 2020, the Standards and General Purposes Committee considered a report recommending some changes to the rules governing the appointment of chief officers, known as the Officer Employment Procedure Rules, in order to resolve some anomalies in the procedure to be followed and to update the definition of the officers to which they apply. The Committee also agreed to recommend the amendment of the terms of reference of the Appointments Committee to formalise the custom and practice of using a sub panel of the main Committee to interview chief officers. If the changes are agreed, the Appointments Committee will be able, but not obliged, to appoint a subcommittee to carry out that activity. The formal appointment of the Chief Executive and Monitoring Officer will still have to be agreed by full Council. The proposed amendments are set out in appendices A and B.
- 2.5. Finally, the Committee also agreed to commence a review of the Constitution to ensure that it allows for robust and transparent decision making, reflects all relevant legislative changes and hangs together as a coherent whole. The Committee appointed a cross party working group comprising the following councillors who will work with the Monitoring Officer and the Independent Persons over the course of the autumn. The working group’s recommendations will be brought to full Council in February 2021.

- 2.6. Members of the Working Group:

Councillor Billy Christie
Councillor Natasha Irons
Councillor Martin Whelton
Councillor David Williams
Councillor Paul Kohler
Councillor Peter Southgate

3 ALTERNATIVE OPTIONS

- 3.1. So far as the local lockdown powers are concerned, given the circumstances in which the need to exercise them are likely to arise, it does not seem sensible to reserve these decisions to the Cabinet. In relation to the other recommended changes to the constitution, it is a principle of good governance that the rules under which the Council operates are clear and consistent and the recommended changes will achieve this in respect of the important matter of senior staff appointments.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. The contents of this report have been considered by the Cabinet and Standards and General Purposes Committee respectively. There is no requirement for public consultation

5 TIMETABLE

- 5.1. The delegation of local lockdown powers to the Chief Executive is already in effect. If agreed by Council, the other recommended changes will take immediately.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. None

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. These are set out within the body of this Report.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. These form part of the regulations and the requirement for proportionality.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. None

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. The recommendations support the need to respond urgently to risks to public health.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

A Amended Officer Employment Procedure Rules

B Amended Terms of Reference of the Appointments Committee.

12 BACKGROUND PAPERS

- 12.1. The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 SI 2020 No.750

- 12.2. Merton's Local Outbreak Control Plan