

# Hoey Ainscough Associates Ltd

## Supporting Local Governance

### **Updating the constitution**

#### **Issue**

1. Hoey Ainscough Associates Ltd were commissioned at the start of 2023 by the previous Monitoring Officer of Three Rivers District Council (TRDC) on revising and updating the Council's constitution. The work was largely carried out by our associate Miranda Carruthers-Watt.
2. This paper presents the final version to the Constitution Sub-Committee for their consideration prior to it being considered by Policy & Resources Committee and recommended to Full Council for their adoption. In preparing the revised Constitution we have consulted the Leader, Deputy Leader and Chief Executive as well as the former Monitoring Officer and the Associate Director, Legal and Democratic Services (Monitoring Officer). We are particularly grateful to the support from Sarah Haythorpe. The Constitution Sub-Committee is asked to consider this version, subject to any minor typos and final proofreading.

#### **About us**

3. Hoey Ainscough Associates Ltd was set up in April 2012 to support local authorities in managing their arrangements for handling councillor conduct issues and wider governance issues. The company was co-founded by Paul Hoey, who had been director of strategy at Standards for England from 2001 until its closure in 2013, and Natalie Ainscough who had worked as his deputy. Paul previously worked as a civil servant where he was responsible for overseeing work on council constitutions before joining the Standards Board.
4. We have now worked with over 400 authorities in one form or another through provision of training, investigative support and wider governance advice. We are also local government advisers to the Committee on Standards in Public Life and support the LGA and NALC on various governance issues relating to the standards framework.
5. We were supported in this project by our associate Miranda Carruthers-Watt. Miranda is a Solicitor who has long experience as a Monitoring Officer in Local Government. She was Chief Executive and Solicitor to the Lancashire Police Authority and Police and Crime Commissioner between 2008 and 2014, City Solicitor and Monitoring Officer at Salford City Council from 2015 to 2020 and is currently Interim MO at Rochdale Council.
6. In reviewing the Constitution we set some high-level objectives with regards to its purpose. These were:

**Accountability** – responsibilities and accountability about who does what should be clear, within the Council and to residents;

**Credibility** – governance should assist good decision making, which involves proper and early scrutiny of policies and proposals;

**Transparency** – the decision-making process should be open and transparent to Members and to the public;

**Collaboration** - decision making should be collaborative across parties;

**Timeliness** – decision making should be both quick and effective and, when necessary, allow for urgent decision-making.

## Recommendations

7. The Sub-Committee are asked to consider the proposed amendments to the Constitution and to consider the following areas in particular where there have been significant changes:
  - Changes to the scheme of delegation arising from the restructure of SLT approved at the Annual Council meeting on 22 May 2023
  - Changes to the rules of procedure for meetings to bring them into line with best practice and ensure more efficient and effective running of meetings
  - Greater definition of the roles of Lead Members and Committee Chairs
  - Revisions to the standards framework to bring it in line with best practice as promoted by the LGA

## Scheme of delegation

8. We have written as part of the proposed amendments to the Constitution a section entitled 'General Principles for Delegation to Officers'. This is based on the principles that specific high-level delegations and statutory duties are set out in the Constitution, but the Council approves a scheme whereby the Chief Executive and other officers can in turn sub-delegate and the Chief Executive is allowed sufficient leeway to make minor changes to delegations without needing Full Council approval where those prove necessary. **The Sub-Committee is asked to consider these General Principles.**
9. A more detailed scheme of delegation arising from the recent amendments approved at the AGM is then included, setting out the specific delegations and limits.

## Rules of procedure

10. The Rules of Procedure (Part 4 of the Constitution) has been updated partly to reflect best practice elsewhere but specifically to ensure that there is more effective and efficient running of the meeting through seeking to strike a more appropriate balance between time allowed for questioning and time allowed for substantive business. In particular focus has

been put not just on the time allowed for an individual to speak and ask questions but for the overall time allowed for that part of the agenda. Key changes are highlighted in yellow. **The Sub-Committee is asked to consider these changes to the Rules of Procedure.**

### **Lead Members and Committee Chairs**

11. Part 2 of the Constitution sets out, among other things, the role of Full Council, the role of Committees and the role of Lead Members. Under local government legislation, where councils are operating a 'committee system' as Three Rivers are, matters cannot be delegated to individual members. Nevertheless, in reality Three Rivers designates lead members to cover particular aspects of the Council's functions. Articles 6 and 7 deal with the roles of P&R and service committees and have attempted to make clear the roles of these committees, the chairs and lead members so that there is a clear understanding of the different roles and how appointments are made. **The Sub-Committee is asked to consider this clarification**

### **The standards framework**

12. Article 9 of Part 2 covers the framework for handling complaints against members. Under the current constitution there was little detail and emphasis was put on the role of Group Leaders in being consulted by the Monitoring Officer on informally resolving complaints. The Local Government Association recently published some guidance on effective complaints handling. We were asked to benchmark your existing process against this guidance. We felt that the too-close involvement of group leaders formally in the process risked at least the perception that there could be political interference in the outcome of cases and did not align with the LGA guidance. We therefore recommend slightly modified arrangements to give the MO, in consultation with the Independent Person, greater autonomy in dealing with matters at an early stage, with a Panel of Members being reserved for final determination where there is a potential breach of the Code. **The Sub-Committee is asked to consider this revised framework.**

### **General approval**

13. As well as the specific points above, the Sub-Committee is asked to consider the proposed new constitution as a whole with a view to recommending it be considered by P&R committee and adopted by Full Council at the next opportunity.

**PAUL HOEY**

**MIRANDA CARRUTHERS-WATT**

**HOEY AINSCOUGH ASSOCIATES LTD**

**22 August 2023**