



Shadow Strategic Policy and Resources Committee

Report to:	Shadow Strategic Policy and Resources Committee
Subject:	Response to DoE Consultation on the Council Constitution
Date:	Friday 28 th November 2014
Reporting Officer:	John Walsh, Town Solicitor and Legal Services Manager
Contact Officer:	Sandra Donnelly, Strategic Planning and Policy Officer (Ext. 6189) Russell Connelly, LGR Programme Support Officer (Ext 6197)

1.0	Background
1.1	<p>Section 2(1) of the Local Government Act (NI) 2014 places a duty on Councils to prepare and keep up to date a Constitution. The Act places a statutory duty on councils to include within the constitution:</p> <ul style="list-style-type: none"> (a) a copy of the Council’s Standing Orders (b) a copy of the NI Local Government Code of Conduct for Councillors (c) such information as the Department may direct (d) such other information (if any) as the Council considers appropriate <p>With regards to paragraph (c) above, the Department (DoE) is now consulting with councils on the specific information which the Department will by Direction require each council to include within their constitution. In addition, the Department has also provided a draft Constitution Framework which can be used as a guide by councils when drafting their own bespoke constitution.</p> <p>A final copy of the Constitution must be available on the Council’s website by 30th April 2015. However to ensure that all the component parts are in place to support the development of new governance arrangements it is intended that the final Constitution for Belfast will be submitted to the Council AGM in March for approval.</p>
2.0	Consultation on Direction and Draft Framework Constitution
	<p>The DoE has now issued for consultation, a document containing:</p> <ul style="list-style-type: none"> i) A Draft ‘Council Constitution Direction’ ii) A Draft Framework Constitution <p>Responses to the consultation are required by 19th December after which time a final Direction and Framework are likely to be issued. However given the tight timeframes involved, and the likelihood that the final versions of each document will not differ vastly from the draft versions, work to compile the Constitution is now beginning.</p>

3.0	Draft Council Constitution Direction (Appendix 1)
3.1	<p>Section 2(1)(c) of the Act requires Councils to incorporate into their Constitutions any information required by the Department in the form of a Direction. The draft Direction issued for consultation outlines requirements under six separate sections:</p> <p>1) The Council – requirements under this section include an obligation to incorporate within the Constitution details of: the purpose of the document; the composition of the Council; a 'scheme of ordinary elections' for Members; residents' rights and responsibilities; roles and functions of the Lord Mayor; the Scheme of Allowances for Members; rules and procedures for the management of financial, contractual and legal affairs and; rules and procedures for review of the Constitution.</p> <p>There does not appear to be anything controversial or unusual in this section. Details of arrangements for the ongoing review and revision of the Council's Constitution will be developed in order that we fulfil our requirement to include the information.</p> <p>2) Functions – requirements under this section include: details of the roles, membership and function of Committees and rules governing the conduct and proceedings of Committee meetings; description of functions discharged by identified officers and; descriptions of joint arrangements and their rules and terms.</p> <p>A copy of the Council's Standing Orders together with a refreshed Scheme of Delegation will fulfil the requirement of this part of the Direction. It would appear that the description of Joint Arrangements made with other Councils should be included at the point at which such arrangements are made (such arrangements may include for example a joint committee in relation to Arc 21).</p> <p>3) Officers – Roles of officers in supporting the Council; roles and functions of the Chief Executive and Chief Financial Officer; details of the management structure; rules on recruitment, appointment, dismissal and disciplinary action for officers and; the officer Code of Conduct and protocol for relationships with Members are all included here.</p> <p>Requirements under this section will largely fall to HR with possible input from Democratic Services.</p> <p>4) Meetings and Information – requirements under this section are for details on arrangements for access by Councillors, the public and Officers to meetings of the Council and its Committees and for access to information about the decisions of those Committees and Council.</p> <p>A copy of the Council's Standing Orders will fulfil the requirements of this section in respect of Members and the public. Officer access to meetings may need to be articulated separately within Staff protocol procedures. Officer access to information about Committee and Council decisions is likely to be fulfilled by the provision of the Modern.gov system.</p> <p>5) Executive – this section is relevant only to those Councils planning an executive form of governance and we therefore can exclude it from our Constitution.</p>
3.2	It appears that the required information specified in the Departmental Direction will be readily available and officers have no concerns about the ability of the Council to comply with the Direction.

4.0	Draft Constitution Framework (Appendix 2)
4.1	The Draft Framework, on which the DoE is also consulting, proposes an outline format which each Council is invited to follow when drafting their own bespoke Constitution. It contains all of the requirements of both the 2014 Act and the Departmental Direction, together with suggested additional content.
4.2	Appendix 2 contains a copy of the Framework, highlighting the sections required by legislation (either stipulated in the Act or in the Direction, or in both) and the additional optional sections.
4.3	There is therefore discretion for each council to amend the draft Framework provided their Constitutions contain, as a minimum, all of the elements listed in the 2014 Act and the Departmental Direction.
5.0	Next Steps
5.1	Given the need to produce a Constitution for the Council in a timely way it is suggested that we develop a Constitution in line with the Draft Constitution Direction with an understanding that it may require some amendment should the final Departmental Direction differ from the draft.
5.2	The development of the Constitution involves a number of individual components which will each be brought for Committee approval over the next few months during which time officers will continue to engage with Members.
6.0	Response to the Consultation (Appendix 3)
6.1	It is recommended that the Council submit a letter of response indicating general satisfaction with both the Direction and the Framework issued by the Department (Appendix 3).
7.0	Resource Implications
7.1	None
8.0	Equality and Good Relations Implications
8.1	None
9.0	Call in
9.1	This report is subject to call in.
10.0	Recommendations
10.1	It is recommended that Members: <ul style="list-style-type: none"> • Note the contents of the report outlining the Council’s obligations to develop a Constitution • Agree the steps outlined as summarise in paragraph 5 • Agree the letter of response to DoE as attached at Appendix 3

11.0	Documents attached
11.1	Appendix 1 - Draft Council Constitution Direction Appendix 2 – Draft Constitution Framework Appendix 3 – Letter of response to DoE
