

Constitutional reviews

The Centre for Public Scrutiny's expert support offer to councils wishing to review, renew and refine their constitutions

CfPS is an organisation with a substantial track record in supporting councils to improve governance and scrutiny.

Our work supporting councils over the last fifteen years has given us in-depth understanding of councils' corporate governance systems – not only the rules, processes and procedures which make up the constitution in a “black letter” sense, but the cultural attitudes and behaviours of those in key leadership and elected positions.

Good governance is a collective responsibility – it sits not only with leaders but with everyone with a stake in a governance system. A council constitution provides a way to map and manage the relationship between all of these stakeholders. Its effectiveness rests on their mutual relationships.

CfPS's constitutional support work is designed to enable the council to achieve its objectives – its key priorities – along with articulating the ways of working that it seeks to promote to deliver those priorities. To achieve this, we conduct a forensic view of the constitution and its supporting documents – led and framed by a review of the council's Annual Governance Statement – to ensure that formal systems support those aspirations.

In this way, the approach that CfPS takes is bespoke; it is not based solely on a national formula of what a “good” constitution should look like or what it should contain from a legal perspective. We do, however, bring to bear an understanding of what other councils are doing and how that practice could be used to inform what councils might do differently, based on a “nearest neighbour” analysis.

The starting point

You may have a clear sense of the specific changes needed, your council may be for example considering how to make permanent some governance changes introduced during the crisis response or other governance changes.

Or it could be that the constitution is no longer fit for purpose and needs an overall review. In this case, Our work would begin with some key questions:

- Does the constitution articulate and reflect the council's values and aspirations as an organisation?

- How might it do this better?
- Does the constitution align with the ways of working that the council has adopted to deliver its objectives and priorities?
 - Are there ways in which – for example – systems in the constitution inadvertently work against corporate plans and priorities?
- How does the constitution and rules of procedure around member decision-making (including meeting arrangements and member/officer arrangements) compare with practice elsewhere?
- Do the constitution and rules of procedure enable members' commitment to the active involvement of members of all parties in the decision-making process?
- Are there specific changes the council is looking to make to the constitution

What areas does the review look into?

The review examines in particular the following issues:

Technical changes to the constitution: there are likely to be a range of “quick wins” – small changes to the constitution which may pave the way for more substantial changes.

Roles and responsibilities. A central feature of positive working relationships is a clear and unambiguous articulation of roles and responsibilities. We look at the constitution alongside corporate and council plans, and alongside any organisational values that might have been articulated to guide positive working relationships. We use these to understand how the constitution can be optimised to support council improvement;

Decision-making processes. We look at the decision-making process and the way that policy is designed and developed, including the role of scrutiny, and ensure that the way that policy development is described in formal documents reflects the reality. This is based on an understanding that policy development and decision-making incorporates a blend of formal and informal systems.

Councillors roles, rights and responsibilities. We look in depth at member/officer procedure rules, access to information procedure rules and rules on conduct, to articulate a better understanding of councillors' overall roles, their relationships with each other and their relationships with officers.

What evidence is used to support the work?

- A review of documents: the constitution itself, and other key council documents including the most recent Annual Governance Statement, and the constitutions of a number of other “nearest neighbour” councils;
- A (light touch) review of some recent decisions to understand the processes through which those systems run, from the genesis of policy to its implementation;
- Interviews with key individuals either in person or remotely. This will usually include the CEO, s151 officer, Monitoring Officer, relevant lawyers, the Leader and a selection of councillors. Depending on the council's approach and focus we may also interview external partners.

The CfPS team

Depending on your specific needs, CfPS would create a bespoke delivery team drawn from its core staff and established pool of associates. This group has expertise in governance,

law, and consists of experienced local government officers and councillors. If required, we can also draw on additional legal expertise from our partners.

What is the product?

Reflecting your needs, we are able to a report setting out findings and associated possible actions for local discussion and for the agreement of an action plan. We can facilitate the process by which an action plan is developed.

We are also able to provide more detailed support to enable to implementation of the review findings.

Costs

Depending on the areas of focus and the issues examined, a review as described above will generally cost between £8k and £10k, excluding VAT.

Case studies of recent constitutional review work can be found on the CfPS website.