

**Pre-Review Constitution Changes**

<b>Final Decision-Maker</b>	Council
<b>Lead Head of Service</b>	Angela Woodhouse, Head of Policy, Communications and Governance
<b>Lead Officer and Report Author</b>	Ryan O'Connell, Democratic and Electoral Services Manager
<b>Classification</b>	Public
<b>Wards affected</b>	None

**Executive Summary**

This report requests some changes to the new constitution that would benefit from being addressed immediately rather than waiting until the 6 month review point for the new model to operate effective.

**Purpose of Report**

Decision

**This report makes the following recommendations to this Committee:**

1. That the requested amendments to the Constitution, as set out in 2.4 and 2.6 be recommended to Council for approval;
2. That the uses of the Monitoring Officer's delegation to amend the Constitution as shown at paragraph 2.10 of this report be noted; and
3. That the Committee confirm whether they would wish to continue to receive such a report on the usage of the Monitoring Officer's delegation and the frequency with which they would wish to receive it.

**Timetable**

<b>Meeting</b>	<b>Date</b>
Democracy and General Purposes Committee	22 June 2022
Council	20 July 2022

# Pre-Review Constitution Changes

## 1. CROSS-CUTTING ISSUES AND IMPLICATIONS

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	None directly	Democratic and Electoral Services Manager
<b>Cross Cutting Objectives</b>	None directly	Democratic and Electoral Services Manager
<b>Risk Management</b>	See below	Democratic and Electoral Services Manager
<b>Financial</b>	None	Democratic and Electoral Services Manager
<b>Staffing</b>	None	Democratic and Electoral Services Manager
<b>Legal</b>	These changes represent minor amendments to the constitution and do not conflict with any legislation or regulations.	Democratic and Electoral Services Manager
<b>Privacy and Data Protection</b>	None	Democratic and Electoral Services Manager
<b>Equalities</b>	None	Equalities & Communities Officer
<b>Public Health</b>	None	Democratic and Electoral Services Manager
<b>Crime and Disorder</b>	None	Democratic and Electoral Services Manager
<b>Procurement</b>	None	Democratic and Electoral

		Services Manager
<b>Biodiversity and Climate Change</b>	None	Democratic and Electoral Services Manager

## 2. INTRODUCTION AND BACKGROUND

2.1 The Council's constitution came into effect in May 2022 with the change from the Committee to Executive system. As the new system finds its feet a number of minor changes and suggestions are being recorded for the planned 6 month review of the constitution. However, an issue has come to light that impacts on the ability of the Executive to operate effectively and this report suggests a wording change that would resolve it.

2.2 As it stands the wording of the constitution in Part A prevents officers from producing reports for the Executive until they have been considered by a Policy Advisory Committee (PAC), or unless they are urgent.

2.3 This has the consequence that an item can be scheduled to go to a PAC, and be published on the agenda for it, but the agenda for an Executive meeting (either collectively or individually) cannot be published until the day after the PAC. This inevitably lengthens the decision making process required on items and increases the likelihood of items having to be declared urgent.

2.4 It is therefore recommended that the following change be made in the Constitution to Part A2, Provision 7.6.2:

~~"No Key Decision or Other Material Decision in respect of a matter shall be placed before the Executive or any individual Member on the Executive, no report prepared for them by Officers nor any decision~~ *shall be made* ~~by the Executive or any individual Member on the Executive on such a matter unless: -~~

(a) A report on the matter has previously been considered by a meeting of a Policy Advisory Committee;

(b) ...

(c) ..."

2.5 Further, whilst minor in impact, a second issue that would benefit from being considered is reintroducing flexibility into some items on committee agendas. Unlike the previous constitution the new constitution *requires* that an item be considered on matters such as questions on notice for all committees. This conflicts with the way that regulatory bodies run in particular (namely planning committee and licensing sub-committee hearings) whereby there are in built public engagement methods into the matters being determined.

2.6 It is therefore recommended that Part C 8.2 be amended as follows:

"Before any substantive items are considered, *where appropriate*, the following items shall be considered at each meeting of any Committee"

## 2.7 Changes Under the Monitoring Officer (MO) Delegation (B5, 18.1)

The MO of the Council has an officer delegation to make amendments to the Council's Constitution in a limited number of circumstances. This was in place prior to the change in governance system and adoption of a new Constitution on 21, May 2022 and remains the same:

### **"Part B5 Responsibilities of Senior Officers.**

#### **18. Monitoring Officer**

*18.1. The Monitoring Officer has delegated authority to make changes to the Constitution which are necessitated by decisions taken by the Council; which remove inconsistency or ambiguity; which are minor; or to effect changes in the law."*

- 2.8 This is not a frequently used delegation. However, members will be aware that during the process of rewriting the Constitution Officers gave advice that the Constitution was an evolving document and when discrepancies were found there would be a need for amendments going forward. Where these have related to inconsistency, ambiguity or minor matters, as in the instances below, the MO has authorised amendment.
- 2.9 As these amendments will occur at any time it is considered good practice for Members to be aware of amendments made under this delegation as part of their general oversight of the Constitution.
- 2.10 The list of amendments is as follows:

B5 Responsibilities of Senior Officers (Head of Housing and Community Services)

11.3. Ensure the Council's duties and obligations in relation to homelessness and the operation of the Council's allocation scheme are fulfilled. This includes the contracting out of homelessness review functions under Section 202 of the Housing Act 1996 (as amended), **reviewing the same and ratifying any arrangements entered into prior to the introduction of this version of the Constitution on 21, May 2022.**

**(Addition of words in bold)**

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## 3. AVAILABLE OPTIONS

- 3.1 The committee can recommend the changes to council for approval, suggest alternative amendments before recommending them to Council, or not recommend any changes go forward. The committee is also asked to

indicate its preference, if any, for a MO report on changes made under delegated authority.

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#### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 That the recommended amendments be put to Council for approval for the reasons set out above, and the committee consider its preference for an MO delegation report.
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#### **5. RISK**

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.

#### **6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 6.1 None.
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#### **7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 7.1 If approved by Council the changes will be given immediate effect.

#### **8. REPORT APPENDICES**

None

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#### **9. BACKGROUND PAPERS**

None