

Constitution Review

Final Decision-Maker	Council
Lead Director	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Angela Woodhouse, Director of Strategy, Insight and Governance and Robin Harris, Monitoring Officer
Classification	Public
Wards affected	All

Executive Summary

The Council recently changed its governance system in May 2022 from a Committee system to an Executive and Scrutiny System. A new constitution written by Councillors was adopted as part of the change to the system. It was agreed that the constitution would be reviewed six months after adoption to ensure effective and efficient decision making. This report sets out options for the terms of reference and approach to that review.

Purpose of Report
Decision

This report makes the following recommendations to this Committee:

1. That Option 1 in section 3 of the report be approved; a working group be appointed to carry out a review of the constitution, reporting to this committee with their findings in March 2023 to ensure any changes can be recommended to council for adoption for the next municipal year.
2. That Option 3 be agreed as the scope of the review; that the review is focused on reviewing Part C with consideration to consequential amendments to Parts A and B in light of the constitution's hierarchy.

Timetable

Meeting	Date
Democracy and General Purposes Committee	21 November 2022
Democracy and General Purposes Committee	29 March 2023
Council	19 April 2023

Review of the Constitution

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>The constitution should enable effective decision making to achieve the strategic priorities.</p>	Director of Strategy, Insight and Governance
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The constitution should enable effective decision making to achieve the strategic priorities</p>	Director of Strategy, Insight and Governance
Risk Management	Already covered in the risk section at 5	Director of Strategy, Insight and Governance
Financial	No additional costs are anticipated.	Section 151 Officer & Finance Team
Staffing	The review will be supported by the Monitoring Officer, Director of Strategy, Insight and Governance and the Democratic Services team	Director of Strategy, Insight and Governance
Legal	The Council is required to have an up-to-date written Constitution setting out how the Council conducts its business, who takes which decisions and how to work with the Council. The Constitution should contain the Council's Standing Orders, the Code of	Monitoring Officer

	Conduct, information required by the Secretary of State and other information as the Council considers appropriate – section 9P LGA 2000.	
Privacy and Data Protection	No impact	Policy and Information Team
Equalities	The recommendations do not propose a change that will require an equalities impact assessment.	Equalities & Communities Officer
Public Health	We recognise that the recommendations will not negatively impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The legislative requirements for Overview and Scrutiny of Crime and Disorder Reduction have been met in the constitution and will form part of this review	Director of Strategy, Insight and Governance
Procurement	The constitution contains financial and contract procedure rules the finance and the procurement teams have identified changes required to these rules and these will be considered as part of the review with updates as appropriate	Director of Strategy, Insight and Governance
Biodiversity and Climate Change	There are no direct implications on biodiversity and climate change. Pending decision, it is recommended that Part A that sets out the higher-level principles and core provisions be aligned with the Biodiversity and Climate Change Strategy/Action Plan.	Biodiversity and Climate Change Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 The current constitution came into effect in May 2022 when the Council moved from a Committee System to an Executive and Scrutiny with Policy Advisory Committees model of governance. Council agreed in April 2022 that the Democracy and General Purposes Committee would conduct a review of the operation and effectiveness of the new constitution six months after its introduction. This report sets out options for the approach to and scope of the review.
- 2.2 The constitution is the key governance document for the Council, setting out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are prescribed in law and others are a matter for the Council to choose. The constitution should

make clear to members of the Council, its Officers, and the public how the council works, what people's rights are and how all decisions will be made in accordance with the law. It is a key document and needs to be as clear as possible and kept regularly under review and updated.

2.3 As with any new constitution there will be issues identified that need to be clarified and changed to ensure it is operationally effective, some of which have already been identified and recommended for amendment by this committee including substitute members and the procedure rules for Policy Advisory Committees in respect of reports to ensure effective decision making.

2.4 The Governance Arrangements Working Group identified the following principles as important when drafting the new model and subsequent constitution:

- Member inclusivity throughout the decision-making process
- Increased transparency of decision making
- A member led decision making process; and
- Increased pre-decision scrutiny

2.5 The constitution is structured in parts as explained below:

Part A, sets out the higher-level principles and core provisions of the constitution. The constitution is a hierarchical document, where there is conflict between Part A and another part of the constitution, Part A shall prevail.

Part B, contains provisions on responsibilities for discharging the functions of the Council and for making decisions. The officer functions have been reviewed following the change in senior management structure and have been included in a separate report on the Committee's agenda.

Part C, sets out various rules of procedure around how certain proceedings of the Council are regulated and how decisions are made.

Parts D & E, sets out respectively the Codes and Protocols followed by the Council. It should be noted that the Councillor Code of Conduct is currently in the process of being reviewed and updated. A revised Code of Conduct will be brought forward by the Monitoring Officer at the appropriate time.

Part F, contains final provisions such as the statutory Scheme of Allowances. The Members Scheme of Allowances will be updated following approval of the new scheme by Council.

2.6 As Part C contains the Council's various procedure rules, these should be included in the review to ensure their usability and functioning.

3. AVAILABLE OPTIONS

- 3.1 The committee has been tasked with undertaking a review of the operation and effectiveness of the constitution by Council a “do nothing” option has therefore not been included in the options for the review below. The options 1 and 2 below concern the approach and options 3 and 4 concern the scope of the review. These options have been developed in consultation with the Chair of Democracy and General Purposes

Approach

3.2 **Option 1 – A Working Group is formed to undertake the review**

As the review is likely to involve a number of meetings and detailed work a working group be appointed to undertake the review. As the constitution is a council document impacting and used by all Councillors, it is proposed that all groups on the Council are represented with the following Membership; 3 Conservatives, 1 Liberal Democrat, 1 Independent and 1 Labour, with nominations being sought from Group Leaders for the working group.

The advantages of a working group would be a smaller group who could get into the detail of the task and flexibility on meetings, plus ensuring the main committee have time and is free to deal with other matters. The Committee would maintain control and still have an input as findings and recommendations will be reported back to the committee for approval. The committee would also act as a check point on recommendations having been separate to the review process itself.

The disadvantage would be that not all members of Democracy and General Purposes will be involved in the detail of the review.

3.3 **Option 2 – The Committee undertakes the review**

Democracy and General Purposes undertake the review using its committee meetings. The advantages of this would be all members of Democracy and General Purposes can be involved in the detail of the review.

The disadvantages of this are that as this is an extensive piece of work, it will take more than the already scheduled meetings available to complete, and may crowd out other business the committee needs to undertake. It will also be a large group undertaking the review which could affect progress and may affect the ability to make the deadline for completion.

Scope

3.4 **Option 3 – Review of Part C – Rules of Procedure**

Part C contains the rules of procedure and in essence covers how the Executive, Council and its committees operate including decision making. A review focussed on this section would need to take into account the hierarchical nature of the document and officers will advise where any changes may have implications for earlier parts of the constitution. The review of the operation and effectiveness of the constitution should be focussed on, effective decision making, ease of use, unintended

consequences, and operational matters that have arisen when applying this section. The review may also identify changes or improvements to the Governance model. The reason for focussing on this part rather than the whole constitution is that the changes suggested and made so far have been concerning procedure rules particularly in relation to the how committees operate and how decisions are made. The review will also need to consider the impact of changes if there are many and whether the constitution is fit for purpose or if there needs to be a new constitution.

3.5 Option 4 – Review of the whole constitution Parts A through to F

This option would involve reviewing every aspect of the constitution so a full review. The review of the operation and effectiveness of the constitution should be focussed on, effective decision making, ease of use, unintended consequences, and operational matters that have arisen when applying this section. The review may also identify changes or improvements to the Governance model. Advantage is that every aspect will have been considered.

The disadvantages would be that the review may take a long time, the constitution took an extensive amount of time to put together with extensive member input. This may be perceived as unnecessary as we are only six months into the new constitution and issues so far have been with procedure rules. The review will also need to consider the impact of changes if there are many and whether the constitution is fit for purpose or if there needs to be a new constitution.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Options 1 (approach) and 3 (scope) are recommended for an effective and efficient review of the Constitution. The Committee should consider whether any additional points should be added to the scope of the review.

5. RISK

5.1 Reputational Risk

If the Council does not have an appropriate decision-making framework in place, and cannot make timely decisions or take appropriate actions, the Council's reputation will be compromised.

5.2 Legal Risk

Risk of something being unlawful in the amendments to the constitution as drafted or in the way in which it governs decision making, this will be mitigated through the advice of the monitoring officer.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 It is proposed as part of the review that a short survey is undertaken of councillors to identify any concerns or issues with the constitution to inform the review. The Committee and/or working group can invite councillors and officers to attend meetings to inform the review if appropriate.
-

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Depending on the option approved the review will be conducted and reported to full Council in April to allow any changes identified to be adopted prior to the new municipal year.
-

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None