

Amended Constitution 2020/21 – Reformatting, Minor Amendments, and Member and Public Questions at Committee

Final Decision-Maker	Council
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Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

This report presents the proposed Constitution for 2020/21. The Constitution has been refreshed in a new format with corrections, minor amendments for consistency, updating of factual information and other amendments set out for the committee’s approval.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the amendments to the Constitution set out in Appendix A be agreed; and
2. That, subject to the Democratic and Electoral Services Manager finalising further corrections in the document, the reformatted and amended Constitution be recommended to Council for adoption.

Timetable

Meeting	Date
Democracy and General Purposes Committee	11 March 2020
Council	8 April 2020

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1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	A robust and effective Constitution enables good governance and decision making that underpins the Council’s objectives.	Democratic and Electoral Services Manager
Cross Cutting Objectives	A robust and effective Constitution enables good governance and decision making that underpins the Council’s objectives.	Democratic and Electoral Services Manager
Risk Management	The purpose of the report is to update and ensure consistency in the Constitution. This reduces the risk of improper decision making at the Council.	Democratic and Electoral Services Manager
Financial	None	Democratic and Electoral Services Manager
Staffing	The correct job titles and delegation of functions are included throughout the amended document.	Democratic and Electoral Services Manager
Legal	<p>Part 1 of the Constitution at 1.14 requires the Monitoring Officer to monitor and review the operation of the Constitution periodically and report to the Democracy and General Purposes Committee as appropriate. The Constitution is a critical part of the Councils legal and governance framework. The purpose of this report is to ensure the Constitution is up to date, consistent and functions as the Council intends.</p> <p>The amendment in Appendix A relating to the requisitioning of a meeting has specifically been made to ensure that the Constitution reflects the legal requirements for that process.</p> <p>Any substantial or significant changes to the</p>	Team Leader (Corporate Governance), MKLS

	Constitution must be agreed by the Full Council which is the next stage in the decision-making process for this report	
Privacy and Data Protection	There are no implications for privacy and data protection arising from the amendments to the Constitution	Democratic and Electoral Services Manager
Equalities	The changes to the Constitution tend to use technical language but accessibility has been considered as far as possible in drafting. A significant aim of the reformatting of the Constitution is to ensure it is consistently formatted throughout and is easier to follow and view online.	Democratic and Electoral Services Manager
Public Health	There are no relevant amendments impacting the governance of public health matters.	Democratic and Electoral Services Manager
Crime and Disorder	The Constitution covers the operation of the Communities Housing and Environment Committee which sits as the Crime and Disorder Committee – no changes are proposed to this.	Democratic and Electoral Services Manager
Procurement	The Constitution includes rules and procedures for procurement. The only changes proposed are updated flowcharts to be provided by procurement ready for publication to Council in April 2020.	Democratic and Electoral Services Manager

2. INTRODUCTION AND BACKGROUND

- 2.1 The committee system and associated Constitution were adopted in April 2015. The current version of the Council’s Constitution was last amended in April 2019 (and adopted in May 2019). The Constitution was essentially carried forward as a continuation of the previous version with amendments made to it arising from the committee structure review.
- 2.2 Inevitably over time a document such as the Constitution runs the risk of falling behind the changes to structure and practice at the council. It is also only through operation over a long period of time that conflicts and issues with adopted rules can be fully understood.

- 2.3 It is a requirement of the Constitution that the Monitoring Officer will periodically review the operation of the Constitution to bring it up to date and to consider practical feedback since it has been in use.
- 2.4 Over the last twelve months feedback has been received by Democratic Services from Members and officers on the format and presentation of the Constitution, and on public and member questions at committees. In addition to this the Democratic Services team have been monitoring the Constitution through practical experience of using and advising with it.
- 2.5 The most substantial changes to the Constitution are as follows and are discussed in the body of the report below:
- Questions by Members of the Public at Committee
 - Questions by Councillors at Committee
 - Requisitioning a Council meeting
 - Change to Democracy and General Purposes Committee and Independent Remuneration Panel Terms of Reference
 - Change to Planning Committee Terms of Reference
 - Change to proper officer provisions

Amendments to Part 3.1 Rules 13 and 14– Questions by Members of the Public and Questions by Councillors at Committee.

- 2.6 These rules are part of the Council Procedure Rules and are applied also to Committees by rule 31 which also indicates any amendments to be applied when used at Committees and sub-committees. Two issues relating to questions at committees, from members of the public and from councillors, have been highlighted in 2019/20.

2.7 Question by members of the public at committee

Questions by members of the public is dealt with under rule 13.1. Rule 13.1 is written in the form of how it applies at Council:

"At ordinary meetings of the Council members of the public may ask questions of the Chairman of any Committee provided written notice has been given in advance as set out below.

The question and answer session will be limited to one hour. After the Chairman of any Committee has spoken, the Mayor will ask if any Group Leader/Representative present would also like to respond."

- 2.8 This rule is applied as written at Council and it works as intended. A question is asked of a Chairman of the Committee who responds in the meeting. The Group leaders (or representative) are present, as it is full Council, and each has the opportunity to respond. The session runs for up to an hour.
- 2.9 The issue arises when this rule is applied to meetings of Committees rather than Council. Rule 31 – Application to Committees and Sub-

Committees applies certain Council procedure rules to committees too. Rule 13.1 is one such rule that is applied to both. Rule 31 also stipulates that in such cases references to the Mayor should be interpreted as 'Chairman', and it specifically changes the time limit on rule 13.1 to half an hour (reduced from an hour) for committees.

- 2.10 The practical issue this creates is that not all Groups are necessarily represented at each committee, and with the Group Leaders not present it is not always clear who their representative is. If all Groups respond to the question and then to the supplementary question there would be ten answers given per question and supplementary. With a half hour time limit set by rule 31 this unlikely to allow many questions to be dealt with.
- 2.11 Alternatives are available for those questions that cannot be answered, such as the provision of written answers, but it is common for people to prefer to withdraw questions and resubmit them rather than receive a written answer.
- 2.12 There have been several examples recently at Policy and Resources Committee and at Strategic Planning and Infrastructure Committee of good engagement with the public on important issues and numerous questions being submitted. To prevent time running out the Chairman asks others only to respond if they must in order to allow all questions to be asked. This need for bespoke wording to manage the process is a clear demonstration of the rule not working effectively.
- 2.13 It is therefore recommended that rule 13.1 is amended to read as above with the addition of the following:

Application of rule 13.1 at Committee

At Committee meetings members of the public may ask questions of the Chairman provided written notice has been given in advance as set out below.

This question and answer session will be limited to half an hour, and after the Chairman has responded, the vice Chairman will also be invited to respond.

2.14 Questions by Councillors (at Committee)

As mentioned above, rule 31 applies Council procedure rules to Committees, which includes rule 14 – Questions by Councillors. However, in earlier forms of the Constitution it did not apply the equivalent rule to Committees. No evidence has been found of a decision being taken to extend the application of rule 31 to rule 14 and it may have happened as a result of the numbering changing in the Constitution when other changes were made.

- 2.15 The reason for questioning this rule applying is not just that it did not used to apply, but also that Councillors already have several ways of contributing at committee meetings. Councillors can be visiting members to speak on any item on the agenda. Where there is an item that Councillors wish to have placed on an agenda, they can make a member

request for it to be added to a future agenda. They may also ask questions of a Chairman at Council to hold a Chairman directly to account.

- 2.16 Appendix A sets out the change to rule 31 to stop this rule applying at committees.

2.17 Requisitioning a Council Meeting

The Local Government Act 1972 sets out the process for Councillors to requisition a meeting. Our current Constitution does not reflect this properly and concentrates on providing a 21-day limit for holding the meeting. This has therefore been updated to include both the calling of the meeting (as required by law) and the holding of the meeting as currently stipulated.

2.17 Change to Democracy and General Purposes Committee and Independent Remuneration Panel Terms of Reference

The current terms of reference for Democracy and General Purposes Committee has two references to the appointment of the Independent Person for the Independent Remuneration Panel, so it is recommended that the first one is deleted as it suggests that Democracy and General Purposes make the appointment, when in practice they recommend the appointment to Council.

- 2.18 The terms of reference for the Independent Remuneration Panel also lack clarity on the process for appointment for the Independent Person, so the revised wording proposed reflects this.

2.19 Change to Planning Committee Terms of Reference

The current Planning Committee terms of reference list the delegation as falling to the Chief Executive/Head of Planning and Development. It is recommended that this is changed to the Director of Regeneration and Place/Head of Planning and Development to properly reflect the Council structure and responsibilities.

- 2.20 It should be noted that in practice the Head of Planning and Development uses the delegation to determine applications.
- 2.21 The Constitution has also been amended to remove duplication of 'Planning and Development' from under the Chief Executive in part 1 of the Constitution as this function resides with the Director of Regeneration and Place via the Head of Planning and Development.

2.22 Change to Proper Officer Provisions

Rule 17 – Motions on Notice – has a few references to a proper officer. Not all of these are currently referenced within the proper officer table. It is therefore recommended that a single reference be put into the table to cover Rule 17 in totality and that this be the Head of Policy, Communications and Governance.

- 2.23 A multitude of corrections, including deletion of duplicates have also been made to the to the proper officer provisions. These are not substantial in nature and are mainly to improve formatting and ensure that the table reflects job title changes etc.

Other Changes

- 2.24 All other changes listed in Appendix A are considered necessary to bring the Constitution up to date, to ensure that there are no conflicts within the document, to remove duplication or to improve the practical operation of rules or delegations.
- 2.25 There are further corrections to be made to the document. These are recommended to be done under delegation by the Democratic and Electoral Services Manager once the changes in Appendix A are agreed and prior to adoption of the Constitution at Council in April 2020.

Further Considerations

- 2.26 The recommendations in Appendix A have been made on the basis of the practicality of operating the constitution whilst trying to retain the perceived original intention of the rule. However, there are clear choices that the Committee can make with the rules should they wish to them to apply in different ways. For example, the changes to Group Leaders responding to public questions could also be considered for Council, and the committee should also consider whether the Vice-Chairman being invited to respond is necessary.

3. AVAILABLE OPTIONS

- 3.1 The committee could decide not to update the Constitution. This is not recommended as identified issues with the Constitution would continue.
- 3.2 The Committee could agree the recommended changes as set out in the body of this report and Appendix A.
- 3.3 The Committee could also suggest further changes or amend those proposed such that they are satisfied the Constitution is fit for purpose and can be recommended to Council.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 That the Committee approve the changes set out in Appendix A and agree any further changes or amendments they feel are necessary.

5. RISK

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 Feedback has been received throughout the 19/20 municipal year from Members and officers on matters that relate to the Constitution. These have been factored into the reformatting and amendments to the Constitution.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 The agreed amendments will be made to the Constitution and the Democratic Services team will finalise the document for presentation to full council.

8. REPORT APPENDICES

Appendix A – Proposed Amendments to the Constitution

Appendix B – Draft Reformatted Constitution for 2020/21

9. BACKGROUND PAPERS

None.