

Review of the Constitution

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

Executive Summary

Democracy and General Purposes tasked a representative working group of Councillors to review the new constitution and identify amendments. This report identifies the amendments made and reasons for change. The notes of the working group meetings are included for reference and show the extensive work undertaken by Members during the review. Changes proposed aim to improve the operation of the constitution and the working practices of the Council, Committees and the Cabinet.

Purpose of Report

Recommendation to Council

This report makes the following recommendations to this Committee:

1. To add to the work programme for 2023/24 a review of the governance arrangements in light of the reduction of Members in 2024
2. To recommend to Council the changes proposed to the Constitution at Appendix B, be approved; and
3. That the Monitoring Officer and Director of Strategy, Insight and Governance be delegated to make changes to the constitution to ensure the amendments are consistent and correct any errors, in consultation with the Chairman of Democracy and General Purposes Committee prior to submission to Council.

Timetable

Meeting	Date
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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	Interim Team Leader (Contentious and Corporate

	Council's Standing Orders, the Code of Conduct, information required by the Secretary of State and other information as the Council considers appropriate – in accordance with Section 9P Local Government Act 2000.	Governance) and Monitoring Officer
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 Changed 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 the changes proposed following a review by the Constitution Working Group.
- 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 The constitution is structured in parts as explained below:

Part A, sets out the higher-level principles and core provisions of the constitution.

Part B, contains provisions on responsibilities for discharging the functions of the Council and for making decisions.

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.

Part F, contains final provisions such as the statutory Scheme of Allowances.

Summary of Changes Made

2.4 The constitution working group have met several times over the last three months and the notes of their meetings are attached at **Appendix A**. Over the course of these meetings they interviewed officers including the Chief Executive and Democratic Services team, reviewed a survey of Members (**Appendix C**), reviewed a "snagging list" of issues identified with the constitution (**Appendix D**) and agreed changes to be proposed to the Committee.

2.5 The changes identified by the group are based on careful consideration of the issues raised with using the constitution for example where things are in the constitution itself, useability and also working practice. The group were keen to maintain transparency and a member led approach. The notes of the working group show the reasoning behind each recommended change. Issues of particular note were:

- Improving consistency throughout the constitution
- Reducing the burden on Democratic Services by making the constitution easier to use through changes from the snagging list and removing Cabinet Member meetings
- Ensuring Overview and Scrutiny have the tools for pre-decision scrutiny for example reviewing the forward plan
- Adding in procedure rules for Overview and Scrutiny for call-in and consideration of reports to the Cabinet
- Returning to the previous petition scheme, following unintended consequences with the new scheme

2.6 The changes proposed are summarised by section in the table below

Part	Summary of Changes
Whole	<p>Executive changed to Cabinet to reflect working practices</p> <p>he/she and him/her changed to they/them/their</p> <p>Chairman and Vice-Chair – any reference to Chair changes to Chairman, Vice-Chair to Vice Chairman and Member chairing the meeting changed to Chairman</p>
A1	Executive to Cabinet, plus correction to numbering
A2: Core Provisions	<p>3.4. Access to Information Procedure Rules unchanged moved to Part C4 to ensure rules in one place and consistent</p> <p>6.2. onwards section amended so the purpose of the committees is in Part B and any rules in Part C and duplications with other sections removed</p> <p>6.7. requirement that sub-committees be mainly drawn from parent committees removed</p> <p>7.5. Removal of the need to take the Administration’s Programme back to full Council until approved.</p> <p>7.6.3. – Lead Members no longer required to hold public meetings to make individual decisions. (reduces burden on Cabinet and Democratic Services)</p> <p>8.3. amendment made to allow officers to take key decisions if delegated and delivering the outcome of a Member Decision)</p> <p>8.6. In Part B5, amendments to reflect job titles and roles</p>
B1 Responsibility for Functions	Executive to Cabinet
B2 Responsibility for Council Functions	<p>1.1.2. -1.1.5 amended to reflect previous wording as text missing</p> <p>2.6. – Amended to include one independent Member on Audit Governance and Standards to reflect CIPFA guidance on audit committees and best practice</p>

Part	Summary of Changes
B3 Responsibility for Executive Functions B3 _ Appendix Executive Roles	Executive to Cabinet
B4 Functions of Other Committees	Information moved from Part A2 for PACs Executive to Cabinet
B5 Responsibilities of Senior Officers	Executive to Cabinet
B6 Proper Officer Provisions	Executive to Cabinet Changes to titles
C1 Council Procedure Rules C1 – Appendix A C1 – Appendix B	Executive to Cabinet Pronouns Amended in accordance with previous petition scheme (2021 Constitution)
C2 Committee Procedure Rules	Executive to Cabinet Pronouns Amendment to reflect that the Lead Cabinet Member sets their PACs agenda 2.5.4. amended to reflect practice with substitutions 5.2.3. inclusion of Forward Plan for Overview and Scrutiny 7.2. – moved so OSC procedure rules are in one place 9.1. Petitions to no longer be presented to PACs 9.3. Amended to return to previous petition scheme 10.5. amended to reflect questions to Chairman only at Committees, with no questions at PACs 11.3.5. amended to allow a right of reply 13 amended to put all the rules relating to OSC together 13.3. procedure created for submission and consideration of OSC reports to the Cabinet 13.4. – call-in rule moved from part C3 and amended to include a procedure for consideration of a call-in

Part	Summary of Changes
	13.5.1. amended to encourage PAC consideration of urgent decisions.
C3 – Executive Procedure Rules	Executive to Cabinet 2.5.2. Additional rule added to ensure Cabinet Members consult PACs and make decisions in a timely way 3.5.1. Removal of requirement to give notice for visiting members 3.11 Removal of requirement to give notice for substitutions on Cabinet Sub-Committee Meetings. 4 Amendment of petition rules to reflect the change to the petition scheme 6 Call-in and Urgency moved to C2 7in C2
C4	Executive to Cabinet Pronouns No change to rules parts from A2 moved to this section for clarity at 16 and process for Proper Officer in considering access to information requests relating to urgent decisions.
Parts D onwards	Executive to Cabinet Pronouns
Guide	Move the guide to the front of the constitution and update

2.7 The working group also identified that a further review of the governance arrangements and constitution will be needed in 2023/24 to prepare for the reduction in Members and in particular the arrangements for Overview and Scrutiny and Policy Advisory Committees. It is recommended that this is added to the work programme for next year.

3. AVAILABLE OPTIONS

3.1 The working group have reviewed the constitution in-line with Democracy and General Purposes resolution and to meet the requirement set by Council. The Committee can:

- i. Choose to not put forward any amendment to full council

- ii. Review and identify further amendments to those put forward by the working group in Appendix A
 - iii. Approve the recommended changes as set out in Appendix A
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The Committee is recommended to take forward option 3.1 (iii) as drafted by the working group.
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5. RISK

- 5.1 Officers have advised the working group on risk as appropriate during the review.
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6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 As part of the review a survey of Members was conducted on the current constitution as per **Appendix C**, all political groups were represented on the working group and officers were also interviewed as part of the review.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Amendments as approved will be presented to full Council in April. The Director of Strategy, Insight and Governance seeks approval to further review the constitution to pick up any further corrections required to ensure consistency and accuracy of the constitution including updating the guide to ensure these are incorporated into the amended constitution submitted to full Council in April.
 - 7.2 Any changes will be included in the constitution reports presented to Democracy and General Purposes Committee by the Monitoring Officer on a quarterly basis.
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8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Notes of the Working Group
- Appendix B: Amendments to the constitution

- Appendix C: Member Survey Results Summary
 - Appendix D: Snagging List
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9. BACKGROUND PAPERS

Agenda and Meeting Minutes Democracy and General Purposes Committee
Meeting held on 21 November 2022:

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