

To: Council
Date: 26 November 2018
Report of: Head of Law and Governance
Title of Report: Constitution Review 2018

Summary and recommendations	
Purpose of report:	This report recommends changes to the Council's Constitution following an annual review of the Constitution overseen by a "Cross-Party Constitution Group".
Key decision:	No
Lead Member:	Councillor Nigel Chapman, City Executive Board Member for Customer Focused Services
Corporate Priority:	N/A
Policy Framework:	N/A
Recommendation(s): That Council resolves to:	
1.	Approve the list of proposed amendments to the Constitution detailed in Appendix 1 and highlighted in Appendix 2.
2.	Adopt the revised Oxford City Council Constitution attached as Appendix 2.
3.	Delegate authority to the Head of Law and Governance to amend any further wording that is identified as being inconsistent with the changes approved by Council.
4.	Delegate authority to the Head of Law and Governance to amend the Constitution to include a social media policy, following consideration and approval by the Standards Committee.

Appendices	
Appendix 1	List of proposed amendments to the Constitution
Appendix 2	Revised Oxford City Council Constitution (with proposed amendments highlighted)

Introduction and background

1. The Constitution forms a key part of the Council's governance framework, setting rules, principles and procedures to enable the Council to take decisions and do its work effectively.
2. The Constitution is reviewed annually to ensure that it continues to reflect properly the law and meet the needs of the Council. This is both a tidying up exercise and an opportunity to respond to governance changes and issues that have arisen since the previous review. The Cross-Party Constitution Group ("the Group") was formed to oversee and guide the Constitution Review 2018. The Group was chaired by Councillor Chapman and held meetings on 26 July and 2 October 2018 to consider suggestions from officers and elected members and shape the proposals before Council.

Proposed amendments

3. A list of the proposed amendments resulting from the Constitution Review 2018 is attached as Appendix 1. Many of the proposed amendments are intended to provide additional clarity about existing rules or to better reflect current practices where these have evolved since the Constitution was last updated by Council, in April 2017. A small number of proposals do represent changes to current arrangements and as such may be of particular interest to elected members and the public. These changes are explained in more detail in paragraphs 5 to 11 of this report.
4. Council is asked to approve the proposed amendments and to delegate authority to the Head of Law and Governance to make any other amendments necessary to ensure consistency throughout the Constitution, subsequent to the changes approved by Council.

Council meeting procedures (Section 11)

5. Numerous amendments are proposed to Section 11 of the Constitution, which governs how meetings of full Council operate. These amendments are listed as items 29 to 51 in Appendix 1. There are three particular proposals that would change how meeting arrangements operate in practice:
 - **Item 43: Change the deadline for councillors to submit questions on notice to seven clear working days before the meeting, from four clear working days before the meeting.** This proposal would align the deadline for questions on notice with the deadline for motions on notice, providing one clear deadline for councillors to adhere to when submitting contributions to Council meetings. It would also increase the time available for responses to questions to be produced. The rationale for having separate deadlines was to stagger officers' workload but the change would not create any additional work for officers and is considered to be manageable.
 - **Item 44: Include a limit of one address per individual at a meeting (in addition to the limit of one question per individual), stating that priority will be given to hearing members of the public who have not previously addressed Council within the last 12 months.** This proposal seeks to maintain appropriate opportunities for individual members of the public to contribute to Council meetings while ensuring that these opportunities could not be monopolised by individuals making multiple addresses and asking multiple

questions, potentially to the detriment of other speakers. Under this proposal the current time limits would be maintained but a maximum of 8 of the 45 minutes (5 minutes for an address plus 3 minutes for a question) could be allocated to one individual speaker and new public speakers and questioners would be heard first. The Cross-Party Constitution Group felt that it would be desirable for full Council to hear from a broader range of voices but recognised that making this proposed change alone would not be sufficient to achieve that outcome.

- **Item 49: Include a word limit on motions of 300 words.** The Cross-Party Constitution Group expressed the view that many motions before Council were unnecessarily long and suggested that the introduction of a word limit of 300 words (approximately half a page of text) would make motions more focused and accessible. This limit would apply to motions and amended motions submitted by councillors.
- **Item 51: Include a sub-section on the Monitoring Officers' advice on motions.** This proposed new sub-section would formalise the ability of the Monitoring Officer to require changes to and, if necessary as a last resort, to reject motions and motion amendments submitted by councillors in certain limited circumstances to protect the Council's interests. This power is not currently explicit in the Constitution but the Monitoring Officer is expected to ensure that the Council acts lawfully and properly and as such this amendment is considered to be necessary. This issue has arisen when motions have been submitted that, for example, relate to an open code of conduct investigation or would have been unlawful to implement.

Other committee procedures (Section 14)

6. The proposed amendments to this section are listed as items 54 to 61 in Appendix 1. In addition to a number of minor amendments, this section has been expanded to include new sub-sections detailing specific procedures for different committees, such as public speaking rules, who can put items on agendas and the normal order of business (items 58-61). Currently the procedure rules for full Council apply or the Constitution is silent on these matters, so these proposals would provide additional clarity about how committee meetings operate in practice.
7. It is also proposed that the Council adopts a procedure for electing committee chairs and vice chairs because the Constitution does not currently stipulate how that should happen if there are more than two nominees.
 - **Item 54: Include a procedure for the election of chairs and vice chairs.** Before the first meeting of the new Growth Board Scrutiny Panel, officers developed a written procedure to provide clarity about how the chair and vice chair would be elected and in particular what would happen if there were more than two nominees for either position. As it happened, this was not the case. It is proposed that the Council adopts this procedure to provide clarity about how chairs and vice chairs will be elected. Under this procedure, if there were multiple nominees and no majority in favour of one nominee, the nominee with the fewest votes would be eliminated and another vote would take place. This process would be repeated until a majority of votes were cast for one nominee. In the event of a tie between two or more nominees, lots would be drawn (or similar). The proposed procedure is highlighted in Section 14.5 of Appendix 2.

Call in procedures (Section 17)

8. One amendment is proposed to the call in procedures which would change how planning decisions delegated to the Head of Planning Services are called in to area planning committees by councillors:
 - **Item 64: Remove “Reasons do not need to be given for a call in of a planning application to be taken by the Head of Planning, Sustainable Development and Regulatory Services” and include “A planning call-in to an area planning committee must be supported by reasons but these do not have to be confined to relevant planning considerations”.** Currently the call in of a planning application to an area planning committee by four or more councillors does not need to be supported by reasons. The proposal is that reasons should be given in order to provide clarity and openness about why applications have been called in to committee but that these reasons would not be limited to relevant planning considerations (as is the case for call ins to the Planning Review Committee). Reasons for calling in decisions to area planning committees could include, for example, that the application should be debated in public, taken by councillors, or is of wider community or public interest.

Employment rules (Section 20)

9. Various changes are proposed to the employment rules, which cover the appointments and dismissals of senior officers, to ensure compliance with regulations and to reflect the Council’s current senior management structure. The disciplinary procedures have been expanded to reflect the legal procedures that must be followed where disciplinary action is taken involving a statutory officer (the Head of Paid Service, Chief Finance Officer and Monitoring Officer). This procedure includes an investigation and the appointment of two or more independent persons to the committee considering the dismissal of a statutory officer.

Code on Councillor-Officer Relations (Section 23)

10. It is proposed that arrangements for the recording of gifts and hospitality by councillors are included in the Code on Councillor-Officer Relations.
 - **Item 83: Include a new sub-section on the recording of gifts and hospitality by councillors.** It is proposed that arrangements are established and set out in the Constitution for councillors wishing to voluntarily record offers of gifts and hospitality valued at £50 or more. This is not a requirement under the Members’ Code of Conduct but is considered to be good governance practice. During the Code of Conduct training earlier this year several councillors expressed a wish for such a system to be established. Currently, any councillors wishing to record offers of gifts or hospitality are advised to list these in their Register of Interests (in the non-statutory interest section). A specific register would make all records of gifts and hospitality that councillors receive and wish to declare publically available to view in one place.

Social media policy

11. An external investigator who recently undertook a Code of Conduct investigation has recommended that the Council considers adopting a social media policy to offer additional guidance to councillors. The purpose of such a policy would be to encourage members to aspire to act in a manner that is conducive to supporting

the principles set out in the Members' Code of Conduct, even in their private capacity. A social media policy will be developed by officers, drawing on examples from other local authorities. This report seeks delegated authority for the Head of Law and Governance to amend the Constitution to include a social media policy following consideration and approval by the Standards Committee in early 2019.

Monitoring Officer's use of delegated authority

12. In addition to the proposed amendments set out in Appendix 1, the Monitoring Officer has used delegated authority to make any changes necessary to ensure the Constitution continues to reflect the law, and to correct clerical mistakes and inconsistencies. This exercise has involved updating references to legislation throughout the Constitution and expanding the list of Proper Officer functions (Section 10).

Financial implications

13. There are no financial implications arising from the recommendations contained in this report.

Legal issues

14. As set out in paragraph 10, the Monitoring Officer has delegated authority to make any changes necessary to ensure the Constitution continues to reflect the law. There no other legal issues arising from the recommendations contained in this report.

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Background Papers: None

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