

**To:** Council  
**Date:** 27 January 2020  
**Report of:** Head of Law and Governance  
**Title of Report:** Constitution Review 2019

<b>Summary and recommendations</b>	
<b>Purpose of report:</b>	This report recommends changes to the Council's Constitution following an annual review of the Constitution overseen by a "Cross-Party Constitution Group".
<b>Key decision:</b>	No
<b>Lead Member:</b>	Councillor Nigel Chapman, City Executive Board Member for Customer Focused Services
<b>Corporate Priority:</b>	N/A
<b>Policy Framework:</b>	N/A
<b>Recommendations: That Council resolves to:</b>	
1.	<b>Note</b> the list of amendments that the Monitoring Officer has made using delegated powers detailed in Appendix 1;
2.	<b>Approve</b> the list of proposed amendments to the Constitution detailed in Appendix 2 and highlighted in the draft Constitution at Appendix 3;
3.	<b>Adopt</b> the revised Oxford City Council Constitution attached at Appendix 3; and
4.	<b>Delegate</b> authority to the Head of Law and Governance to amend any further wording and/or numbering that is identified as being inconsistent with the changes approved by Council.

<b>Appendices</b>	
Appendix 1	List of amendments to the Constitution made by the Monitoring Officer using delegated authority
Appendix 2	List of proposed amendments to the Constitution
Appendix 3	Oxford City Council Constitution 2020 (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 properly reflect 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. A Cross-Party Constitution Review Working Group (“the Group”) was formed to consider suggestions from officers and elected members and shape the proposals before Council. The Group was chaired by Councillor Chapman and its membership also included: Councillors Gant, Rowley, Rush, Taylor, Roz Smith and Wolff. The Group held meetings on 9 October, 6 November and 4 December 2019. Following the December meeting a briefing note was prepared and circulated for discussion with political groups.

## Proposed amendments

3. A list of the proposed amendments resulting from the Constitution Review 2019 is attached as Appendix 2. Many of the proposed amendments are intended to provide additional clarity about existing rules or to better reflect current practices where these have changed since the Constitution was last updated by Council in November 2018.
4. A 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 the table below.

Constitution reference	Proposed change(s)	Rationale
Area planning committees 5.3(b)	<ul style="list-style-type: none"> <li>• Raise the thresholds for non-residential planning applications that must be decided by committee:               <ul style="list-style-type: none"> <li>○ to non-residential sites over 1 hectare (from over 0.5 hectares).</li> <li>○ to new or increased non-residential floor space of 1,000m<sup>2</sup> (from 500m<sup>2</sup>).</li> </ul> </li> <li>• Remove the need for all planning applications submitted by the Council to be decided by committee. Any applications (both residential and non-residential) submitted by the Council would be subject to the same thresholds as non-Council applications.</li> </ul>	To reduce the number of non-major applications that must be decided by area planning committees. These applications would still be subject to call in. No changes are proposed for residential developments (5 units or sites over 0.5 hectares) or for applications from councillors and Council employees, which would still have to be decided by a planning committee.

<p>Role of Head of Paid Service - 9.3(a)</p>	<ul style="list-style-type: none"> <li>Remove the restriction on implementing changes to the senior management structure that increase the number of senior management posts or the overall salary costs of senior management. Any changes will be subject to budget.</li> <li>Add authority for the Chief Executive in consultation with the Leader and other Group Leaders to appoint Assistant Chief Executives and Executive Directors on an interim basis for a maximum period of twelve months.</li> <li>Add that the Chief Executive will report to the Appointments Committee every six months on the Council's senior management arrangements.</li> </ul>	<p>To strike an appropriate balance that meets members' expectations that the Chief Executive will act proactively to shape the senior management of the Council whilst meeting the Council's high standards of accountability.</p>
<p>Council procedures - questions by the public 11.13(e)</p>	<ul style="list-style-type: none"> <li>Add a word limit of 200 words for public questions.</li> </ul>	<p>To make a clearer distinction between public questions and public addresses.</p>
<p>Other committee procedures - General Purposes Licensing Committee 14.3</p>	<ul style="list-style-type: none"> <li>Increase the size of the General Purposes Licensing Committee to 15 members (from 10 members).</li> <li>Increase the quorum of the General Purposes Licensing Committee to 5 members (from 4 members).</li> </ul>	<p>To provide for consistency of membership on the two licensing committees by enabling political groups to appoint the same members to both committees which meet consecutively (currently the Licensing and Gambling Acts Committee has 15 members and the General Purposes Licensing Committee has 10 members).</p>
<p>Call in procedures 17.3</p>	<ul style="list-style-type: none"> <li>Raise the call in threshold for decisions on planning applications delegated to be taken by the Head of Planning Services from four to six councillors.</li> </ul>	<p>To help to reduce the number of applications that are called in and then subsequently agreed at committee with little or no debate. This slows down decision making and can create poor perceptions amongst groups/individuals interacting with the planning system.</p>
<p>Commissioning Oxford Direct Services Limited for one off capital schemes 19.11</p>	<ul style="list-style-type: none"> <li>To add a provision setting out the requirements on the Council when it commissions Oxford Direct Services Limited</li> <li>To provide clarity</li> </ul>	<p>Best Value is the duty placed on local authorities by the Local Government Act 1999 "to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness".</p>

		<p>The Council consciously acknowledges that ODSL and ODSTL exist to enable the Council to discharge the Best Value Duty with the particular benefits flowing that relate to the Council's wider responsibilities to people and place in the City of Oxford. The "Oxford Model" is based upon the fact that work and the income flowing from that is retained in the public purse.</p> <p>The Corporate Management Team has agreed the parameters that should apply for tenders and quotes when the Council wishes to contract with ODSL and this should be reflected in the Constitution.</p> <p>Officers will be authorised to award a contract when they consider that the contract award would achieve best value for the Council having considered the following factors:-</p> <ul style="list-style-type: none"> <li>(i) the <b>capacity</b> of the wholly owned company to deliver the Council's intended outcomes</li> <li>(ii) any available information about the relevant <b>market conditions</b></li> <li>(iii) the level of any <b>financial premium</b> over expected market prices</li> <li>(iv) the <b>social value</b> that could be supported by awarding the contract to ODSL over and above other providers (e.g. local employment, apprenticeships and any other aspects of social value identified by the Council as its social value policy matures.)</li> <li>(v) the <b>Council's strategic aim</b> of developing the company to return long term value back to the Council</li> <li>(vi) the extent of and arrangements for any <b>subcontracting</b></li> </ul>
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5. Since consideration of the proposals by political groups a further amendment has been proposed to Part 3.7 to clarify that the Chief Executive, or an Executive Director nominated by the Chief Executive, will advise the Shareholder and Joint Venture Group on matters of policy. This is in addition to the Chief Finance Officer and Monitoring Officer acting as advisors to the Shareholder and Joint Venture Group.
6. 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.

### **Monitoring Officer’s use of delegated authority**

7. Appendix 1 sets out the proposed amendments that the Monitoring will make using her delegated authority (in accordance with Part 2.5 of the Constitution which states that the Monitoring Officer can change the Constitution if it is to put right clerical mistakes or to make it follow the law).
8. In addition to those amendments the Monitoring Officer has used her delegated authority to make any changes necessary to ensure the Constitution continues to reflect the law, revise job titles and to correct clerical mistakes and inconsistencies. These changes included, but were not limited to:
  - standardisation on cross referencing to include Part and paragraph numbers in brackets;
  - standardisation on email addresses and other active web links; and
  - deletion of “*Section*” and replacement with “*Part*”
9. The more substantive changes that have been made by the Monitoring Officer under her delegated powers are set out in a list and attached as Appendix 1.
10. The format of the Constitution has also been revised to give it a more professional look which clearly identifies it as the Constitution of Oxford City Council and to include a revision date for version control. The Constitution including the proposed amendments is presented in the new format in Appendix 3.
11. This new format will make it easier to reflect decisions to revise the Constitution in the future as it will allow officers to effect changes to individual Parts without impacting the flow of the document as a whole. It will also make it easier for individuals using the Constitution to identify which Parts have been updated and to view the document as a whole or quickly access any of the individual Parts.
12. The table below lists those Parts of the Constitution which have not changed since the last publication:

<b>Part</b>	
Part 1	Citizens’ rights and other basic rules
Part 2	About the Constitution
Part 6	Role of Cabinet Members
Part 8	Role of the Scrutiny Committee
Part 10	Proper Officers
Part 12	Cabinet procedures
Part 13	Scrutiny Committee Procedures
Part 15	Access to information and key decision procedures

Part 16	Budget and Policy Framework Procedures
Part 20	Employment Rules
Part 22	Members' Code of Conduct
Part 23	Code on councillor-officer relations
Part 25	Whistle-blowing Policy
Part 26	Councillors' Allowances
Part 27	ICT Acceptable Use Policy

### Financial implications

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

### Legal issues

14. A local authority is under a duty to prepare and keep up to date its constitution under section 9P of the Local Government Act 2000 as amended. The Constitution must contain:
- the Council's standing orders/procedure rules;
  - the Council's members' code of conduct;
  - such information as the Secretary of State may direct; and
  - such other information (if any) as the authority considers appropriate.
15. A Constitution Direction was issued by the Secretary of State in December 2000 that required around 80 matters to be included within constitutions, covering members' allowances schemes, details of procedures for meetings, details of joint arrangements with other local authorities and a description of the rights of inhabitants of the area, amongst other things.
16. As set out in paragraph 6, the Monitoring Officer has delegated authority to make any changes necessary to ensure the Constitution continues to reflect the law.
17. There no other legal issues arising from the recommendations contained in this report.

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