

To: Council
Date: 17 February 2021
Report of: Head of Law and Governance
Title of Report: Constitution Review 2020/21

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, Cabinet Member for Customer Focused Services
Recommendations: That Council resolves to:	
1.	Approve the list of proposed amendments to the Constitution detailed in Appendix 1 and highlighted in the revised Constitution at Appendix 2;
2.	Adopt the revised Oxford City Council Constitution attached at Appendix 2;
3.	Delegate authority to the Head of Law & Governance to amend the constitution with effect from May 2021 to reflect the changes to the planning committees.
4.	Delegate 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.

Appendices	
Appendix 1	List of proposed amendments to the Constitution
Appendix 2	Oxford City Council Constitution 2021 (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.

- 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 Cook, Gant, Lygo, Linda Smith, Roz Smith and Wolff. The Group held meetings on 11 November, 11 December 2020 and 13 January 2021.

Proposed amendments

- A list of the proposed amendments resulting from the Constitution Review 2020/21 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 changed since the Constitution was last updated by Council in January 2020.
- 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
Council responsibilities and Executive responsibilities Part 3.7	<ul style="list-style-type: none"> To make provision in the Constitution for the Council to enter into joint arrangements with other local authorities if required. 	The Council has the ability to enter into joint arrangements under the Local Government Act 1972 (as amended) and provisions for joint arrangements are not currently included in the Constitution. Joint arrangements may be for functions that are legally the responsibility of the Leader (executive) or Council (non-executive).
	<ul style="list-style-type: none"> To make provision in the Constitution for the Council to delegate to or accept delegation from other local authorities if required and to clarify the responsibility for any such delegations. 	The Council has the ability under the Local Government Act 1972 (as amended) to arrange for its functions to be undertaken by another local authority by agreement. Equally other local authorities have the ability to delegate functions to the Council, as Oxfordshire County Council has recently done with Covid-19 enforcement powers. Provisions for making and accepting such delegations are not currently included in the Constitution
Executive Responsibility	<ul style="list-style-type: none"> To include arrangements for single Cabinet member decisions and the 	Provisions for single Cabinet Member decisions are not currently included in the Constitution. This is to reflect a

<p>es Part 4.6</p>	<p>parameters for this.</p>	<p>decision of the Leader to delegate decisions within a specific project approval (the property investment strategy) to a single Cabinet Member. The proposal sets out the arrangements for any such decisions, including the need for a written report to be provided to the Cabinet Member. Key decision procedures and call in procedures will apply to any key decisions delegated to a single Cabinet Member.</p>
	<ul style="list-style-type: none"> To clarify that ward member budget spend allocations cannot be awarded to benefit individuals. 	<p>To provide clarity and reflect the purpose of ward member budgets which is to provide a community benefit and not to support individuals who may be struggling financially.</p>
<p>Responsibility for Council functions Part 5.3</p>	<p>This change would come into effect from May 2021.</p> <ul style="list-style-type: none"> A change to the planning committee structure to merge the two area planning committees and to increase delegation levels. There is to be an increase in the size of the Planning Committee to 11 members (Part 14.3). There will be consequential amendments to the planning committee procedures (Part 14.11). To provide a manageable workload for a single area planning committee it is proposed that non-major applications will be delegated to the Head of Planning Services. However, all applications will be subject to the current call in arrangements if members wish to see full Committee scrutiny and decision making, provided that call in is supported by planning considerations. 	<p>To achieve the associated budget saving from May 2021. The increase in the size of the planning committee stems from considerations about member involvement in decision making and ensuring more scope for geographical representation on the committee.</p>
<p>Roles of Decision</p>	<ul style="list-style-type: none"> To amend the role of the Appointments Committee to 	<p>To allow for greater transparency and accountability around the staffing</p>

<p>taking Committees Part 7.8</p>	<p>include the receipt of reports from the Chief Executive on the number of officers that they have authorised to carry out work for another local authority under a delegation from that local authority.</p>	<p>issues that arise if the Council accepts such a delegation.</p>
	<ul style="list-style-type: none"> Amend the role of the Appointments Committee to include consideration of appeals/objections to a post being added to the list of politically sensitive posts in the Council's list of Politically Restricted Posts. Keeping a list of politically restricted posts is legal requirement and a proper officer function, which is allocated to the Chief Executive in the Constitution. The legislation specifies that certain posts are politically sensitive. Senior officer posts are all on the list of politically restricted posts. Other officer posts further down the structure, with less strategic roles, may also be on the list depending on the nature of those roles if they are considered to be "sensitive" and there is a procedure for post-holders to appeal against this categorisation to the Appointments Committee. 	<p>To reflect the procedure adopted for the categorisation of posts as politically restricted by the Head of the Paid Service.</p>
<p>Roles of Decision taking Committees Part 7.9</p>	<ul style="list-style-type: none"> To include in the Constitution the process for considering individual dispensations which Council has previously delegated to the Monitoring Officer at a meeting on 1 October 2018. Dispensations allow Members to take part in a meeting or decision from which they would otherwise be precluded due to having a disclosable pecuniary 	<p>To clarify the delegation agreed by Council on 1 October 2018. The Monitoring Officer has delegated authority to grant an individual dispensation to a Member following consultation with an Independent Person. The Standards Committee receives reports from the Monitoring officer on the granting of individual dispensations and has noted that it is not always practicable for the Monitoring Officer to consult with an</p>

	interest.	Independent Person prior to granting an individual dispensation e.g. if a dispensation is sought during or immediately prior to a meeting taking place.
Role of scrutiny Committee Part 8.2	<ul style="list-style-type: none"> To include in the Constitution the Scrutiny Committee's long standing "operating principle" that chairs of standing panels and review groups must be a member of the Scrutiny Committee. 	This proposal will formalise the rule that chairs of standing panels and review groups must be members of the Scrutiny Committee, providing additional clarity to members and groups. The rule is to ensure that only members of the Scrutiny Committee are responsible and accountable for the leadership of the scrutiny function. Other non-executive members can sit on these bodies but cannot chair them.
Council procedures Part 11.4(e)	<ul style="list-style-type: none"> To remove the need for Budget Council to agree a procedure that is set out in the Constitution. 	To clarify that Budget Council will consider any amendments to the budget debate procedure but not the core procedure itself which has previously been agreed by Council in the Constitution.
Motions on Notice Part 11.18(a)	<ul style="list-style-type: none"> To make provision for emergency cross-party motions to be submitted to Council after the normal deadline of 1.00pm seven clear working days before the meeting. The proposal is for urgent cross-party motions supported in writing by all the Leaders of political groups on the Council to be submitted by 1.00 pm three working days before the Council meeting so that they may be circulated with the briefing note. 	To provide flexibility for Council to consider motions at late notice where these are considered urgent and are supported by all the Leaders of political groups on the Council.
Motions on Notice Part 11.18(f)	<ul style="list-style-type: none"> To include a rule that any amendments to cross-party motions must be supported in writing by all the leaders of the political groups on the Council. 	To ensure that Council will only consider amendments to cross-party motions that have cross-party support. Cross-party support is the basis for these motions being listed first on the agenda and taken first at meetings, ahead of motions submitted by groups.

Other committee procedure rules 14.5	<ul style="list-style-type: none"> To include a rule that the Chair of the Audit and Governance Committee should not be a member of the Cabinet. 	To reflect the Chartered Institute of Public Finance and Accounting (CIPFA) guidance on the membership of audit and governance committees that the Chair should not be a Cabinet Member to better facilitate the holding to account role that the committee has.
Call in procedures Part 17.4	<p>This change would come into effect from May 2021.</p> <ul style="list-style-type: none"> To strengthen the grounds for call in to the Oxford City Planning Committee to require relevant material planning considerations. 	To provide a manageable workload for a single area planning committee and also improve the level of service for applicants and other interested parties.
Finance Rules Part 18.12	<ul style="list-style-type: none"> To raise the financial threshold for heads of service to grant project approval from less than £150,000 to less than £185,000. 	To align with the proposed thresholds for quotes and tenders set out in the table in Part 19. No change is proposed to the threshold for Cabinet decision of £500,000.
Contract Rules Part 19.12	<ul style="list-style-type: none"> To amend the thresholds for when quotes and tenders must be sought To align the rules on seeking quotes and tenders approximately with the Find a Tender (FTS) threshold (£189,330) instead of the Official Journal of the European Union (OJEU) threshold To make other changes to the rules on quotes and tenders recommended by the Strategic Procurement Manager. 	To update the rules and provide clarity

- 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.
- It is proposed that the Council will continue to operate two area planning committees for the remainder of the current municipal year. The reduction to one Oxford City Planning Committee will take effect from May 2021 along with the change to delegated authority for the Head of Planning Services and the other consequential changes.

7. The Council is asked to delegate authority to the Head of Law and Governance to make the necessary changes to the Constitution to allow for the Oxford City Planning Committee to be responsible for reaching decisions on the matters in Part 5.3 within all wards and for the threshold in respect of the call in of planning decisions to be updated with effect from May 2021.

Monitoring Officer’s use of delegated authority

8. The Monitoring Officer has the delegated authority (Part 2.5) to change the Constitution if it is to put right clerical mistakes or to make it follow the law.
9. 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.

Revised constitution

10. The Constitution including the proposed amendments is presented in Appendix 2.
11. The table below lists those Parts of the Constitution which have not changed since the last publication:

Part	
Part 1	Citizens’ rights and other basic rules
Part 2	About the Constitution
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 27	ICT Acceptable Use Policy

Financial implications

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

Legal issues

13. 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.
14. 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 and a description of the rights of inhabitants of the area, amongst other things.
15. 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.
16. There no other legal issues arising from the recommendations contained in this report.

Report author	Emma Griffiths
Job title	Lawyer
Service area or department	Law and Governance
Telephone	01865 252208
e-mail	egriffiths@oxford.gov.uk

Background Papers: None