

DRAFT

To: Council
Date: 21 March 2022
Report of: Head of Law and Governance
Title of Report: Constitution Review 2021-22

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 Susan Brown, Leader, and Cabinet Member for Inclusive Growth, Economic Recovery, and Partnerships
Corporate Priority:	N/A
Policy Framework:	N/A
Recommendations: That Council resolves to:	
1.	Approve the list of proposed amendments to governance arrangements in the Council’s Constitution listed in Appendix 1 with effect from 18 May 2022;
2.	Approve the list of proposed amendments to clarify existing governance arrangements in the Council’s Constitution as detailed in Appendix 2 with effect from 18 May 2022;
3.	Approve the dispensations in Part 22.5(e) granted under section 33 of the Localism Act 2011 for a further four years from 1 October 2022:
4.	Note that Council will be recommended to adopt a new Members Code of Conduct under a separate agenda item, following consideration by the Standards Committee; and
5.	Delegate authority to the Head of Law and Governance to make minor and consequential amendments to the Constitution including to wording and/or numbering that is identified as being inconsistent with the changes approved by Council.
6.	Note that the Monitoring Officer has delegated authority to change Part 4 (who carries out executive responsibilities) and Part 6 (roles of Cabinet members) to reflect the wishes of the Leader. This would include amending Cabinet Member portfolio titles in the Constitution to reflect any changes announced by the Leader.

Appendices	
Appendix 1	List of proposed amendments to governance arrangements in the Constitution
Appendix 2	List of proposed amendments to strengthen the clarity of existing governance arrangements in the Constitution

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.
3. 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 Cllr Paula Dunne and its membership also included: Cllr Colin Cook, Cllr Andrew Gant Cllr Chris Jarvis, Cllr Saj Malik, Cllr Mike Rowley, Cllr Imogen Thomas and Cllr Liz Wade. The Group held one meeting, on 14 December 2021 to consider proposed changes submitted by members and officers. Following the December meeting a briefing note was prepared and circulated for discussion with political groups. A further briefing paper was circulated in February 2022 for consideration by political groups.
4. The Council’s Corporate Management Team and Organisational Development Group (heads of service) have also been consulted on the key proposals.

Proposed amendments

5. The lists of the proposed amendments resulting from the Constitution Review 2021-22 are attached as two appendices. Appendix 1 lists proposed amendments to governance arrangements. These are proposals that in the view of officers would change elements of the Council’s current rules or governance practices. Appendix 2 lists proposed amendments to clarify existing governance arrangements. These are changes that in the view of officers would not materially impact current governance practice but would serve to clarify or update existing rules, responsibilities and advice.
6. Since the Constitution Review is in part a tidying up exercise there has been a high degree of consensus on the majority of proposals considered by the Group.
7. The proposed amendments to governance arrangements (Appendix 1) were considered and debated in turn by the Group and some proposals have subsequently been amended by officers to reflect member input.

8. The proposals to strengthen the clarity and consistency of existing provisions (Appendix 2) were taken as read by the Group and were only debated by exception. A small number of items have been added to Appendix 2 since the meeting of the Group. These are amendments that would ordinarily fall under the delegated authority of the Head of Law and Governance to correct clerical mistakes or to make it follow the law. These amendments have been included for completeness and include updates to officer post titles
9. A small number of proposals were not supported by members, others required amendment following member input and one proposal was referred to political groups for consideration. The proposal that was referred to groups concerned whether cross-party motions should be excluded from the time limit for motions. This proposal was not supported by the controlling group.
10. 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 July 2021.
11. A number of proposals do represent changes to current arrangements and as such may be of particular interest to elected members and the public. The more significant changes are highlighted in the table below. Item # refers to the numbering of the proposals in the appendices.

Item #	Constitution reference	Proposed change(s)	Rationale
2	Part 4.5: Decisions that must be agreed by Cabinet	<ul style="list-style-type: none"> • To include a higher threshold for project approval from Cabinet of £1m for contract awards (all other project approvals to remain with Cabinet at £500k and above). 	Currently officers have delegated authority to award contracts up to the value of £1m however the threshold for Cabinet to grant project approval is £500k (which applies to some contract awards). This change would enable officers to award contracts up to the value of £1m without any authorisation from Cabinet.
3	Part 4.6: Delegation to single Cabinet Members	<ul style="list-style-type: none"> • To include the principle that an officer report will be published 5 clear days before a decision is taken by an individual Cabinet Member – akin to any other executive decisions that are taken by Cabinet or the Shareholder and Joint Venture Group, where the reports and agenda are published 5 clear working days before the meeting. 	To promote transparency so the public knows what decisions are being made, but also to promote the visibility of such decisions to Members.
6	Part 11.11: Questions and statements by	<ul style="list-style-type: none"> • To authorise officers to order questions on notice and to group similar questions. 	To clarify that officers are responsible for the order in which questions on notice are listed on

	councillors		the agenda. In practice questions on notice are grouped by Cabinet Member rather than taken in the order in which they are received. The grouping of similar questions was supported by the Cross-party group
7	Part 11.11 Questions and statements by councillors	<ul style="list-style-type: none"> To include a sub-section on answering questions stating that members answering questions can offer to follow up with a written response within 5 working days of the meeting if they do not have the answer to hand and that any written responses will be added to the minutes of the meeting. 	To clarify that the member responsible for answering a question can offer to provide a written response, with provisions for ensuring the timeliness and visibility of written responses.
8	Part 12.7 Cabinet procedures: order of business	<ul style="list-style-type: none"> To include a rule that Cabinet must respond to recommendations from the Scrutiny Committee within two months unless the Chair of the Scrutiny Committee agrees to an extension. 	The duty of the executive to respond to Scrutiny within two months is set out in 9FE of the Local Government 2000.
11	Part 15.14: Key decisions	<ul style="list-style-type: none"> To align the key decision rules with the financial thresholds for matters reserved to Cabinet: 	To simplify the governance around decision making by ensuring that all key decisions are automatically matters reserved to Cabinet in the first instance (key decisions may then be delegated by Cabinet). Currently key decisions on contract awards >£500k <£1m are delegated to officers although some may require project approval from Cabinet >£500k.

12. 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 changes agreed by Council will be effective from the date of the next Annual Council meeting, on 18 May 2022.

13. Council is also asked to approve a refresh of the dispensations contained in Part 22.5(e) of the Constitution for a further four years from 1 October 2022. The Council may grant general dispensations applicable to all Councillors. The Constitution currently provides that under section 33 of the Localism Act 2011 the following dispensations were granted for four years on 1 October 2018:

- Determining an allowance (including special responsibility allowances), travelling expense, payment or indemnity given to Members
- Housing: where the Member (or spouse or partner) holds a tenancy or lease with the Council as long as the matter does not relate to the particular tenancy or lease of the Member (their spouse or partner);
- Housing Benefit: where the Councillor (or spouse or partner) receives housing benefit;
- Any Ceremonial Honours given to Members;
- Setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation); and
- Setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation)

Monitoring Officer's use of delegated authority

14. Part 2.5 of the Constitution provides that the Monitoring Officer can change the Constitution if it is to put right clerical mistakes or to make it follow the law. 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.

Financial implications

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

Legal issues

16. 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.

17. 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.

18. As set out in paragraph 12 the Monitoring Officer has delegated authority to make any changes necessary to ensure the Constitution continues to reflect the law.

19. There no other legal issues arising from the recommendations contained in this report.

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Background Papers: None