

To: Council
Date: 20 March 2023
Report of: Head of Law and Governance
Title of Report: Constitution Review 2022-23

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 Review Working Group.
Key decision:	No
Lead Member:	Councillor Susan Brown, Leader of the Council and Cabinet Member for Inclusive Economy and Partnerships
Corporate Priority:	N/A
Policy Framework:	N/A
Recommendations: That Council resolves to:	
1.	Approve the list of proposed amendments to the Council's Constitution listed in Appendix A with effect from 17 May 2023;
2.	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 A	List of proposed amendments to the Constitution 2022-23

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 consideration by Full Council. The Group was chaired by Cllr Edward Mundy and its membership also included: Cllr Shaista Aziz, Cllr Nigel Chapman, Cllr Paula Dunne, Cllr Emily Kerr, Cllr Mike Rowley, Cllr Roz Smith and Cllr Christopher Smowton. The Group held three meetings, on 13, 20 and 27 February 2023 to consider proposed changes submitted by members and officers.

Proposed amendments

4. The list of 52 proposed amendments resulting from the Constitution Review 2022-23 are attached at Appendix A.
5. The proposed amendments were initially considered and debated in turn by the Group and in the latter stages of the review process the proposals were taken as read and only debated by exception. Following debate, some proposals were amended by officers to reflect member input and subsequently circulated to the Group for agreement.
6. Since the Constitution Review is in part a tidying up exercise there was a high degree of consensus on the vast majority of proposals considered by the Group. A small number of proposals required amendment following member input. Only one of the proposals submitted was not supported by members, which related to a proposal to provide a time limit for Member Questions on Notice at Full Council meetings.
7. A small number of proposals which may be of particular interest to members and the public are set out in the table below. The full list of proposals is set out at Appendix A.

Table 1

Constitution reference	Proposed change(s)	Rationale
All	To change references to gender-specific pronouns throughout the Constitution to ‘they’ (or appropriate alternative).	To ensure inclusivity, reflecting all gender identities.
Part 5.3(b) Planning – who carries out the responsibility?	To correct a discrepancy between 5.3(b) (<i>bullet point 5 under responsibilities of Planning Committee</i>) and 17.3 (first section in table) in respect of when planning applications, which would normally be decided by the Head of Planning Services, can be called-in to be determined by the Planning Committee.	Currently, the timescales set out in the two sections have a subtle but important difference, meaning there is scope for misinterpretation of the call-in deadline, which could leave the Council open to challenge. Officers’ view is that the timescale set out in 17.3 is the clearer of the two and there is less scope for misinterpretation, so 17.3 should be reflected in 5.3(b) rather than the other way around. 17.3 relates to the date on which the application was included on the weekly list.
Part 9.3(b) Role of Head of	To include provision for the Chief Executive to delegate urgency	The Chief Executive’s involvement in Council Joint Ventures could lead to a

Paid Service	powers to an Executive Director in exceptional circumstances, when there is a conflict of interest which would preclude the Chief Executive from making the decision. Also to add reference to an <i>individual</i> or body which would normally be required to act.	situation where the urgency powers cannot be used as the Chief Executive has a conflict of interest.
Part 11.15 Petitions to full Council	To tighten up the section on petitions to Full Council.	The current provisions are not as clear as they could be and would benefit from more detail.
Part 11.20 Rules of debate	To clarify the rules of debate, including provisions for debating minor technical amendments and debating two similar motions together, with a separate vote on each. Clarity around right of reply and provisions for a member agreeing to an amendment on their motion (at what point).	For clarity (<i>see Appendix A, proposal 28 for full detail</i>).
Part 15.14(a) Key decisions	To include 'income' over a certain amount as amounting to a key decision.	To ensure clarity across the organisation, as it is a common query when the Council is due to receive a significant value of income.

8. 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 17 May 2023.

Monitoring Officer's use of delegated authority

9. Part 2.5 of the Constitution provides that the Monitoring Officer can amend the Constitution if it is to put right clerical mistakes or to make it follow the law. The Monitoring Officer has used their 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

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

Legal issues

11. 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.
12. 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.
13. As set out in paragraph 9 the Monitoring Officer has delegated authority to make any amendments necessary to ensure the Constitution continues to reflect the law.
14. There no other legal issues arising from the recommendations contained in this report.

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Background Papers: None
