

Proposed Changes to the Council Constitution

Audit and Governance Committee 28 November 2023

Lead Member: Councillor Ben Chapelard, Leader of the Council

Lead Director: Lee Colyer, Director of Finance, Policy and Development

Head of Service: Claudette Valmond, Head of Legal Partnership and Monitoring Officer

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Classification: Public document (non-exempt)

Wards Affected: All

Approval Timetable	Date
Management Board	13 November 2023
Constitution Review Working Party	21 November 2023
Audit and Governance Committee	28 November 2023
Full Council	13 December 2023

Recommendations

Officer recommendations as supported by the Cabinet Member and the Constitution Review Working Party:

1. That the Audit and Governance Committee recommends to Full Council to approve the amendments to the Constitution as set out in Appendices A to M to this report.
2. That the Audit and Governance Committee recommends to Full Council that the Monitoring Officer be authorised to make all other necessary and consequential changes to the Constitution to give effect to these recommendations.

1. Introduction and Background

- 1.1 This report proposes a number of changes to the Constitution to ensure that the Constitution remains up to date and effective.

2. Proposed changes to the Constitution

It is proposed that the following changes are made to the Constitution:

PART 3, RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATIONS

Section 5 – LICENSING COMMITTEE

Part 3, Section 5, Para 5.5 - Sub-Committee Delegations - Page 15

- 2.1 There have been a number of changes to the legislation relating to animal licensing and these are to be reflected in the Constitution. Certain licensing delegations are to be reallocated to where it is most appropriate for certain decisions to be made.

The proposed changes are set out in Appendices A, B and C.

PART 3, RESPONSIBILITY FOR FUNCTIONS AND SCHEME OF DELEGATIONS

ANNEX B – RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

CABINET PORTFOLIOS, Page 32

- 2.2 the Cabinet Portfolios have changed and the Constitution is to be amended to reflect the changes.

The proposed changes are set out in Appendix D.

PART 4 – RULES OF PROCEDURE

Part 4, Section 23 – DISTURBANCE BY THE PUBLIC - Page 19

- 2.3. It is proposed that a new paragraph 23.3 be inserted to address how the abusive, offensive and threatening conduct of members of the public (at Council meetings) against Members and/or Council officers is to be addressed during Council meetings.

The proposed changes are set out in Appendix E.

PART 4 – RULES OF PROCEDURE

PART 4, CABINET PROCEDURE RULES,

Public Questions, Paragraph 28.5.2, Page 25

- 2.3 It is proposed that a new paragraph 28.5.2 is added to clarify that a person who has asked a question at a meeting, may ask a supplementary question arising directly out of the question or the reply and that the Leader has the right to reject any supplementary question which falls outside of the scope. The existing paragraph 28.5.2 will become paragraph 28.5.3.

The proposed changes are set out in Appendix F.

Part 4, FINANCIAL PROCEDURE RULES

Part 4, Section 3 - FINANCIAL PLANNING

Budget Transfers – Council - Paragraphs 3.4.5 (d) and 3.4.6 – Page 55

- 2.4 All reserves (General Fund, Earmarked Reserves, Capital Grants & Contributions and Capital Receipts) are now termed “Usable Reserves” in the Council’s Annual Financial Report. This will now reflect the technical reporting changes required in the Council’s statutory accounts.

It is therefore proposed that paragraph 3.4.5(d) be deleted and paragraph 3.4.6 is amended to reflect this change.

The proposed changes are set out in Appendix G.

Part 4, Section 4 – RISK MANAGEMENT AND CONTROL OF RESOURCES

Use of and Disposal of Assets, Paragraph 4.6.2, Page 59

- 2.5 Prior to officers commencing discussions with third parties concerning the potential use of, works to or the disposal or acquisition of Council assets, it is important that such matters are referred to the Section 151 for professional consideration to avoid exposure for the Council to unnecessary risk from unformed discussions taking place with third parties.

It is therefore proposed that a new paragraph 4.6.3 be inserted to address this point with the remaining sub-paragraphs of paragraph 4.6. being renumbered.

The proposed changes are set out in Appendix H.

Part 4, BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

Section 2 – PROCESS FOR DEVELOPING THE FRAMEWORK - Paragraph 2.12 page 99; and

Section 6 – VIREMENT AND SUPPLEMENTARY ESTIMATES - Paragraphs 6 and 6.1 page100

- 2.6 Paragraph 3.4, page 54 refers to “Budget Transfers” whereas paragraph 4.8 of Part 3 – Delegations to Officers page 35 and Part 4 – paragraphs 2.12, 6 and 6.1 on pages 99 and 100 refer to “Virements”. “Budget Transfers” and “Virements” have exactly the same meaning in accounting terms and are interchangeable.

It is recommended that for consistency all references to “Virement” in the Constitution are replaced with the words “Budget Transfers”.

The proposed changes are set out in Appendix I.

PART 5, CODES AND PROTOCOLS

Part 5, ACQUISITION AND DISPOSAL OF PROPERTY GUIDANCE, Paragraph 5.1.3, Page 97

- 2.7 Land values have increased significantly and the £10,000 limit referred to in this paragraph does not allow for the approval of sale by private treaty without Cabinet approval.

It is proposed that there is an increase in the value of land and buildings to be authorised by Cabinet where the sale is to be by private treaty from £10,000 to £100,000.

The proposed changes are set out in Appendix J.

PART 5, CODES AND PROTOCOLS

GENERAL MEMBER PROTOCOL, Paragraph 3.2, Page 99

- 3.2 It is proposed that a new sentence is added to paragraph 3.2 to provide that any statutory officer shall be able to sign a member’s declaration of acceptance.

The proposed changes are set out in Appendix K.

PART 6, MEMBERS ALLOWANCE

Schedule 2, Members' Expenses Applicable to 31 March 2023

Childcare Allowance and Dependants' Carers' Allowance for Members, Page 7.

- 2.8 To amend the Constitution as Members allowance is paid at the National Living Wage and the figures in the Constitution are no longer applicable.

The proposed changes are set out in Appendix L.

GENERAL CONSTITUTION REVIEW

- 2.9 The Monitoring Officer is required to review the Constitution and to make such amendments as are deemed necessary from time to time. A full-scale review was undertaken recently and a number of changes are proposed. Some of the changes will be made under the Monitoring Officer's delegated authority such as changes to legislation, general formatting and typographical errors. More significant changes identified as part of the review are to be approved by Full Council.

The changes to be approved by Full Council are set out in Appendix M.

3. Options Considered

- 3.1 The proposed amendments referred to in this report and detailed in Appendices A to M are considered to be necessary to improve the Council's governance arrangements and decision-making process. A 'do nothing approach' was considered but this was not the preferred option.

4. Consultation on Options

- 4.1 The Management Board has been consulted on these proposals.

5. Implementation

- 5.1 Subject to approval by the Audit and Governance Committee, the proposed changes will be submitted to Full Council on 13 December 2023 for approval.

6. Appendices and Background Documents

Appendices: Appendices A to M set out the proposed changes to the Constitution for approval by the Audit and Governance Committee.

Exempt appendices (if any) None

Background Papers: None

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

A clear and effective Constitution supports the corporate priorities and reviewing the Constitution regularly ensures that it most effectively meets the needs of the Council and the public. The Constitution requires the Monitoring Officer to monitor and review the operation of the Constitution.

It is a function of the Constitution Review Working Party and the Audit and Governance Committee to regularly review the Constitution in conjunction with the Monitoring Officer and recommend proposed changes, where significant, to the Council. Any Human Rights Act implications have been addressed in the main body of this report.

Claudette Valmond, Head of Legal Partnership and Monitoring Officer – 13.11.2023

B. Finance and Other Resources

There are no issues or implications arising from this report.

C. Staffing

There are no implications on staffing levels or structures.

D. Risk Management

The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered. The changes proposed are to ensure the effective running of the Council, when deciding whether to recommend approval of the changes the Constitution Review Working Group will need to consider the risk of not recommending approval of the proposed amendments to the Constitution.

E. Environment and Sustainability

No significant direct implications.

F. Community Safety

No significant direct implications.

G. Equalities

There are no relevant issues identified within this report.

H. Data Protection

There is no specific privacy or data protection issues to address.

I. Health and Safety

No significant direct implications.

J. Health and Wellbeing

No significant direct implications.