



Report Reference Number: E/14/41

To: Executive
Date: 10 January 2019
Status: Non Key Decision
Ward(s) Affected: All
Author: Palbinder Mann, Democratic Services Manager
Lead Executive Member: Councillor Mark Crane, Leader of the Council
Lead Officer: Janet Waggott, Chief Executive

Title: Annual Review of the Constitution

Summary:

As part of the preparations for Annual Council a review of the Constitution is undertaken to ensure it is up to date and fit for purpose.

This report highlights the proposed changes to the Constitution and asks Executive to refer them for consideration at the Audit and Governance Committee before they are presented to Council for approval.

Recommendations:

- i. That Executive endorses the proposed changes and ask Audit and Governance to consider and report on the changes before they are considered by full Council.

Reasons for recommendation

To ensure the constitution is up to date and fit for purpose.

1. Introduction and background

1.1 The constitution is a key document in the Corporate Governance Framework of the Council. The two overarching principles of good governance as set out in the CIPFA code are

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
- Ensuring openness and comprehensive stakeholder engagement.

- 1.2 A review is undertaken of the Constitution on an Annual basis to consider whether there are any changes required as a result of legislative change, any recommendations from internal or external auditors or in the light of experience and best practice.
- 1.3 Under Article 15 of the Constitution responsibility for the review lies with the Monitoring Officer. Changes will only be approved by the Council after consideration of proposals by the Executive taking into account the advice of the Chief Executive or the Monitoring Officer. This report constitutes that advice.
- 1.4 It is also within the Terms of Reference of the Audit and Governance Committee to monitor and report on the effectiveness of the Constitution.

2. The Proposals

- 2.1 The review has been undertaken by relevant officers across the Council and considered by the corporate leadership team. The review has considered any changes to legislation, recommendations of audit and best practice. Any changes proposed seek to strike a balance between ensuring that powers are available to use to deliver the Corporate Plan in a timely way whilst ensuring that decision making is open and transparent and subject to appropriate levels of oversight and scrutiny.
- 2.2 The table at Appendix A sets out the results of the review and the proposed changes. Appendices B and C set out the revised Financial Procedure Rules and Contract Procedure Rules in full. These have been amended in consultation with the Chief Finance Officer and the Head of Commissioning, Contracts and Procurement respectively.
- 2.3 Subject to the Executive approving the recommendations in this report, the proposed timetable is as follows

10 Jan 2019	Executive
30 Jan 2019	Audit and Governance
7 Feb 2019	Executive (if there are substantial changes proposed by the Audit and Governance Committee)
TBC March 2019	Council

- 2.4 Unless any other operative date is specified, any changes that are proposed are effective from the date of the next Council meeting following the date of the decision to effect the change.

3. Alternative Options Considered

Not to make any changes. However this would not ensure that the Constitution is fit for purpose.

4. Implications

4.1 Legal Implications

A local authority is under a duty to prepare and keep up to date its constitution under the Local Government Act 2000 as amended.

4.2 Financial Implications

None

4.3 Policy and Risk Implications

If the Constitution is not up to date there is a risk that decisions will not be made on a lawful basis.

4.4 Corporate Plan Implications

The proposed changes enable delivery of the Corporate Plan and other Council policies in a timely manner striking a suitable balance between delivery and transparency.

4.5 Resource Implications

None.

4.6 Other Implications

None

4.7 Equalities Impact Assessment

Not required

5. Conclusion

- 5.1** The amendments proposed will ensure delivery of priorities in an open and transparent manner and will enable delivery of Corporate objectives.

6. Background Documents

None

7. Appendices

Appendix A – summary of proposed changes
Appendix B – revised Financial Procedure Rules
Appendix C – revised Contract Procedure Rules

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Section	Reviewer	Comment
Summary and Explanation	Dem Services	General update to be made to reflect any substantive changes.
Articles	Dem Services	<p>General update to be made to reflect any substantive changes</p> <p>Remove Sustainable Community Strategy and Community Safety Partnership Plan from the Policy Framework List in Article 4 as these are County responsibilities.</p>
Responsibility for functions	MO/legal	<p>Amend the Terms of Reference for Policy Review Committee to clarify that they can consider proposed new Council policy documents as well as scrutinising existing policies.</p> <p>In 2016/17 an Internal Audit Report found that the council's scheme of delegation does not require that proposals submitted by or on behalf of the authority for its own developments or on its owned land are determined by Planning Committee. Without such a provision, there is potentially a lack of governance around conflicts of interest.</p> <p>It is proposed that the Specific Officer Delegations for Non Executive (council) functions with respect to Planning and Development Management be amended to require that applications submitted for determination by or on behalf of the authority for its own developments or on its owned land are presented to Planning Committee unless they are 'minor applications' and no objections have been received</p> <p>Clarify insurance arrangements as responsibility for different aspects sit between Directors, the Chief Finance Officer and the Solicitor.</p>

Council Rules of Procedure	Dem Services	<p>Minor wording changes for clarity and updates to reflect current practice.</p> <p>Confirm that rules 15.1 and 15.6 (a) do not apply to the Planning Committee (these rules are currently suspended by the Committee at each meeting).</p>
Access to Info Procedure Rules	Dem Services	<p>Add in a section to ensure records are kept of any decisions taken by Individual Executive Members.</p> <p>Minor wording changes for clarity and updates to reflect current practice.</p>
Budget and Policy Framework Rules	Dem Services	Minor wording changes for clarity and updates to reflect current practice.
Executive Procedure Rules	Dem Services	Minor wording changes for clarity and updates to reflect current practice.
Overview and Scrutiny Rules	Dem Services	Changes made in year as part of Scrutiny Review.
CEF Procedure Rules	Dem Services/Head of Service	Minor wording changes for clarity and updates to reflect current practice.
Petitions Procedure Rules	Dem Services	Consider whether this is still required. Could we replace with a scheme that allows petitions without being part of the constitution?
Financial procedure rules	MO/S151	<p>Changes proposed in property disposal rules to remove acquisitions and utilise capital scheme rules with a guidance for acquisitions</p> <p>Grant claim rules to be looked at with view to delegations to Directors.</p> <p>Revised version being drafted by s151 Officer and will be attached at Appendix B for formal executive.</p>
Contract procedure rules	HOS Commissioning, Contracts and Procurement	<p>Wording changes for clarity and updates to reflect current practice.</p> <p>Revised version being drafted by K Cadman and will be attached at Appendix B for formal executive.</p>

Officer Employment Procedure Rules	MO	No changes needed.
Councillor Code of Conduct	MO	No changes proposed although there is a potential for changes to be required in future if national legislation changes.
Standards Arrangements	MO	No changes proposed although there is a potential for changes to be required in future if national legislation changes.
Protocol on Councillor/Officer Relations	MO	No changes needed.
Councillor Consultative Charter	MO	No changes needed.
Officer Code of Conduct	MO/HR	Minor wording changes for clarity and updates to reflect current practice.
Planning Code of Conduct	MO/HOS Planning/ Chair of Planning	Item 4 of the Planning Committee Agenda- Suspension of Council Procedure Rules be incorporated into the Code to save having to agree at each meeting to suspend Council Procedure Rules 15.1 and 15.6 (a) for the duration of the meeting. Minor wording changes for clarity and updates to reflect current practice.
Licensing Code of Conduct	MO/Licensing Manager/Chair of Licensing	No changes proposed.
Protocol on filming/recording meetings	Dem Services	No changes required.
CEF Code of Conduct	Dem Services/Head of Service Customers, Partnerships and Communities	Minor wording changes for clarity and updates to reflect current practice.
Members Allowances Scheme	Dem Services	Updates to reflect any changes.
Management Structure	Dem Services	Updates to reflect any changes.

