

Report to: **Council**

Date: **20 May 2021**

Title: **Enhancing the Democratic Decision-making Process – Review of the Constitution**

Portfolio Area: **Leader of the Council –Cllr Pearce**

Wards Affected: **All**

Urgent Decision: **No** Approval and clearance obtained: **Yes**

Date next steps can be taken: Constitution to be implemented on adoption

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Recommendation

It is recommended that Council:

- (1) adopts a revised Constitution to comprise:
 - a. Chapter 1 – Introduction
 - b. Chapter 2 – Scheme of Delegation (Part 3 of the existing Constitution)
 - c. Chapter 3 – Meeting Procedure Rules
 - d. Chapter 4 – Access to Information Procedure Rules (Part 4(a) of the existing Constitution)
 - e. Chapter 5 – Other Procedure Rules (Parts 4(a), 4(c), 4(f), 4(g), 4(i) of the existing Constitution)
 - f. Chapter 6 – Codes and Protocols (Part 5 of the existing Constitution, but with Councillors’ Code of Conduct appended as Appendix C)
 - g. Chapter 7 – Councillors’ Allowance Scheme (Part 6 of the existing Constitution).
- (2) notes that further reports will be brought to Council as work progresses in reviewing and reformatting those elements comprising the existing Constitution.

- (3) that the effectiveness of decision-making arrangements introduced by the reports to Council on 11 February and 25 March 2021 and set out in the Constitution are reviewed in 12 months.

1. Executive summary

- 1.1 The Council has a legal duty to publish an up to date Constitution and it should be reviewed annually with any necessary changes being normally considered at the annual council meeting. This report proposes changes to the content and format of the Constitution to reflect the principles agreed by the Council at its meetings on 11 February and 25 March 2021 as the basis for future decision-making.

2. Background

- 2.2 Prompted by issues and challenges raised by Councillors over the last autumn the Council has been reviewing its decision-making processes with a view to enhancing and improving them. To that end Council considered reports to its meetings on 11 February and 25 March 2021 and agreed the overarching aims and principles (Minute 40/20 refers) as well proposed revisions (Minute * refers). The principles and proposed revisions had been the subject of a series of discussions involving all Councillors over the past few months and out of which a clear consensus developed as to the need to promote an inclusive approach where all Councillors could contribute fully to the Council's decision-making processes.
- 2.3 As the report to Council on 25 March acknowledged it is essential that Councillors and officers operate within a local governance framework of checks and balances to ensure that decision-making is lawful, informed by objective advice, transparent, and consultative.
- 2.4 The Constitution sets out the framework. The Council's Constitution currently comprises 7 Parts sub-divided into 34 further documents. The Constitution is difficult to navigate and because it has grown organically, it is not always internally consistent. Neither does it contain all the delegations in one place, with these spread across several documents. Accordingly, in conjunction with the review of the Council's decision-making processes, the opportunity has been taken to begin the work of simplifying the document.
- 2.5 As a starting point the review seeks use terminology consistently across the Constitution with the following preferences – highlighted bold:
- a. **Councillor** v Member;
 - b. Cabinet v **Executive**;
 - c. Chief Executive v **Head of Paid Service**;
 - d. Chair v **Chairman**; and

e. Chief Finance Officer v **Section 151 Officer**.

- 2.6 As for the substance, Parts 1 (Summary and Explanation) and 2 (Articles) of the current Constitution have been merged into a new easier to read introduction (see Appendix A). The Introduction, which is now referred to as Chapter 1 to reflect a change of style, now sets out the purpose of the Constitution and when complete will have on-line links to the detail elsewhere in the Constitution (as will be the case throughout the document). For the time being, the intended links are shown in red and underlined. The Articles are not a legal requirement and repeat many of the points in the Introduction and elsewhere in the Constitution.
- 2.7 Part 4 (Rules of Procedure) of the current Constitution an amalgam of procedure rules. The proposal is that these should be re-organised with those relating to meetings being grouped together in what is now referred as Chapter 3. The Meeting Procedure Rules bring together the procedure rules for meetings of the full Council, the Executive, Committees and the Overview and Scrutiny Committee together into a single document. The document concludes with appendices which set out the rules for public questions, questions on notice from Councillors, notices of motion and substitutes as well as showing the rules of debate in an easy-to-follow flowchart. The appendices are intended to be the essential guide to the meeting procedure rules.
- 2.8 Appendix B sets out the Meeting Procedure Rules with the principles and revisions discussed with Councillors as well as the Appendices highlighted in yellow.
- 2.9 Although there is a close relationship between meetings and the access to information procedure rules, it is felt that the latter justify a separate chapter to themselves. This will be referred to as Chapter 4 – Access to Information Procedure Rules.
- 2.10 The remaining procedure rules relating to financial matters, contracts and the employment of officers will be grouped together as Chapter 5 – Other Procedure Rules.
- 2.11 The current Budget and Policy Framework Procedure Rules may be viewed as dictating how delegated powers are to be exercised so it is proposed that consideration is given to weaving these into the scheme of delegation. The current Procedure Rules for Other Bodies of the Council will likewise be incorporated into the scheme of delegation.
- 2.12 The Councillor code of conduct was reviewed by Overview and Scrutiny Panel on 1 April 2021. The Panel agreed that Council should be recommended to adopt the Code of Conduct appended to this report as Appendix C.

2.13 Chapters 4 and 5, the scheme of delegation (which will be amended to reflect decisions on governance boards and task and finish groups to be taken elsewhere on the agenda) and the review of the remaining provisions are work in progress. Until that work has been completed the Constitution will, if Council approves Chapters 1 and 3, comprise:

- a. Chapter 1 – Introduction
- b. Chapter 2 – Scheme of Delegation (Part 3 of the existing Constitution)
- c. Chapter 3 – Meeting Procedure Rules
- d. Chapter 4 – Access to Information Procedure Rules (Part 4(a) of the existing Constitution)
- e. Chapter 5 – Other Procedure Rules (Parts 4(a), 4(c), 4(f), 4(g), 4(i) of the existing Constitution)
- f. Chapter 6 – Codes and Protocols (Part 5 of the existing Constitution but with the new code of conduct)
- g. Chapter 7 – Councillors’ Allowance Scheme (Part 6 of the existing Constitution).

2.14 The mix of old and new is unfortunate, but the aim would be to complete the remaining drafting as quickly as practicable with further reports being brought to Council to approve the revised and reformatted elements.

3. Outcomes/outputs

- 3.1 When complete the revised Constitution will be a more user-friendly document. In the meantime, Chapters 1 and 3 incorporate the principles and revisions agreed by Council and indicate the direction of travel.
- 3.2 The Councillors’ Code of Conduct is a customised version of the Local Government Association’s Model Code customised to make references to the Council and is consistent with the vision that the Council aspires to.

4. Options available and consideration of risk

- 4.1 The options for changes to the Council’s decision-making process, and the importance of putting emphasis upon:
 - a. Strengthening and enhancing democracy;
 - b. Clarifying the role and purpose of committees;
 - c. Developing the principles of an integrated system and the important inter-relationship between committees;
 - d. Streamlining the flow of information into, and between, committees and reducing duplication; and

- e. Increasing opportunities for all Councillors to contribute their knowledge and expertise as effectively as possible, in order to maximise our collective impact.

have been discussed with Councillors and the proposals reflect the consensus of opinion.

- 4.2 The risks of not having an up-to-date, consistent and complete Constitution are that responsibility and accountability for decisions is unclear, decision-making lacks transparency and ultimately decisions are made unlawfully.

5. Proposed Way Forward

- 5.1 The report proposes changes to the content and format of the Constitution so that it reflects proposals to improve the clarity, efficiency, and accountability of decision-making and will ultimately produce a more user-friendly document.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Under section 9P of the Local Government Act 2000 the Council has a duty to prepare and keep up to date a document known as a constitution which contains: (a) a copy of the authority's standing orders for the time being; (b) a copy of the authority's code of conduct; (c) such information as the Secretary of State may direct; and (d) such other information (if any) as the authority considers appropriate. Decisions to adopt and to approve the Constitution are reserved to the full Council.
Financial implications to include reference to value for money	N	There are no financial implications arising directly out of this report.
Risk	Y	The report identifies the risks in paragraph 4.2
Supporting Corporate Strategy	Y	The proposals support all the elements of the Corporate Strategy

Climate Change - Carbon / Biodiversity Impact	Y	There are no climate change and biodiversity implications arising directly out of this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

Supporting Information

Appendices:

Appendix A – Draft Chapter 1 – Introduction
Appendix B – Draft Chapter 3 – Meetings Procedure Rules
Appendix C – Code of Conduct for Councillors

Background Papers:

There are none