

Report to: **Council**

Date: **25 May 2021**

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

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

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 the revised Constitution set out at Appendix A to this report.
- (2) notes that further reports will be brought to Council as work progresses in reviewing and reformatting the Constitution so that it provides a simpler and easier document
- (3) delegates to the Head of Legal Services and Monitoring Officer, in consultation with the Leader and the Ward Members, decisions to make orders under section 91 of the Local Government Act 1972 where there are so many vacancies in the office of Parish/Town Councillor that the Parish/Town Council is no longer able to act. Such decisions will subsequently be reported in the Members Bulletin.

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 Hub Committee as the basis for future decision-making.

2. Background

- 2.1 The report to Hub Committee on 27 April 2021 acknowledged that 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.
- 2.2 The Constitution sets out the framework. The Council's Constitution currently comprises 8 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.
- 2.3 While there has been some discussion on principles and broad agreement as to why the Constitution needs to be reviewed, this is a significant piece of work and one that should involve all members of the Council. For the purposes of the annual adoption of the Constitution therefore the starting point the review has been to ensure that terminology is used consistently across the Constitution with the following preferences – highlighted bold:
 - a. **Councillor** v Member;
 - b. Chief Executive v **Head of Paid Service**;
 - c. Chair v **Chairman**; and
 - d. Chief Finance Officer v **Section 151 Officer**.
- 2.4 In addition to this, the Constitution incorporates the code of conduct adopted by the Council at its meeting on 30 March 2021 (Minute CM42e refers). There has been some reformatting, but further work on the layout and updating of the scheme of delegation is required.
- 2.5 The aspiration is that over the coming months is the Constitution will have:
 - a. a complete face-lift with a new easier to read introduction setting out the purpose of the Constitution;
 - b. on-line links to the detail elsewhere in the Constitution or on the Council's website;
 - c. the procedure rules for meetings of the full Council, the Hub Committee, other Committees and the Overview and Scrutiny Committee in a single place;
 - d. the meeting procedure rules supported by 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.

- e. A consolidated scheme of delegation into which the current Procedure Rules for Other Bodies of the Council will be incorporated;
 - f. the current Budget and Policy Framework Procedure Rules which may be viewed as dictating how delegated powers are to be exercised will be also incorporated into the scheme of delegation.
 - g. the scheme of delegation will be amended to reflect decisions on governance boards and task and finish groups to be taken elsewhere on the agenda.
- 2.6 In terms of the scheme of delegation in its current form, Council is asked to delegate decisions to make orders under section 91 of the Local Government Act 1972 to the Head of Legal Services and Monitoring Officer, in consultation with the Leader and Ward Members. The making of an order is to be reported in the Members' Bulletin. Section 91 Orders are made by the Council where a parish council is inquorate. Due to the number of vacancies it is unable to meet and make decisions. The effect of the order is to appoint sufficient persons to be parish councillors so that the parish council can act. The nature of the decision is such that the Borough Council has little scope for refusing to make the order.

3. Outcomes/outputs

- 3.1 When complete the revised Constitution will be a more user-friendly document.

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.

will be discussed with all Councillors and the revised Constitution will, in due course be revised to reflect the consensus of opinion with reports to Council as required.

- 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 limited changes to the Constitution, but sets out a broad aspiration 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 – Constitution 2021

Background Papers:

There are none

Approval and clearance of report

Process checklist	Completed
Portfolio Holder briefed/sign off	Yes/No
SLT Rep briefed/sign off	Yes/No
Relevant Heads of Practice sign off (draft)	Yes/No
Data protection issues considered	Yes/No
Accessibility checked	Yes/No