

Annual Refresh, Update and Confirmation of the Changes to the Constitution

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Lead Member/Relevant Portfolio Holder	Monitoring Officer

Corporate Priority:	All
Relevant Ward Member(s):	N/A
Date of consultation with Ward Member(s):	N/A
Exempt Information:	No

1 Summary

- 1.1 The Monitoring Officer undertakes regular reviews of the Constitution to ensure that it is up to date and reflects the law and best practice. It is customary for the Council to receive an approve the Council's constitution on an annual basis. The report sets out various recommended updates and amendments to the Constitution following this review.

2 Recommendations

That Council	
2.1	Approves the Constitution, including the proposed revisions to the following Council documents:
2.1.1	The Planning Committee Functions and Procedure Rules
2.1.2	The Code of Conduct for Members and Officers Dealing with Planning Matters
2.1.3	The Audit and Standards Committee terms of reference (including the exclusion of members of the executive from membership of the Committee).
2.1.4	The Scheme of Officer Delegations (Chapter 2- 4 Delegations to the Head of Paid Service (Chief Executive paragraph 14)

2.1.5 The Contract Procedure Rules (Standing Orders)

2.1.6 A delegation to officers in respect of Non-Domestic Business Rates

3 Reason for Recommendations

- 3.1 The Constitution is under continuous review to ensure it is relevant, clear and adheres to changes in the law and best practice. It is customary for the Council to consider and approve the Constitution at the Annual Meeting. This is the latest iteration of that work.

4 Background

- 4.1 The Constitution Review Working Group at its meetings on 11 March and 24 April 2025 considered various amendments to the Constitution which are set out below.
- 4.2 Recommended changes to the Planning Committee Functions and Procedure Rules
- 4.2.1 The points set out below follow discussion at the Planning Productivity Oversight board and subsequent consideration by the CRWG following the earlier commitment to review certain parts of the Constitution to improve procedural clarity.
- 4.2.2 Rules 2.18 and 2.19 of the Functions and Procedure Rules say that a ward Councillor may speak for up to three minutes when making representations on an application to the Committee. The recommended change applies where more than one ward Councillor wants to make representations, when the three minute period is shared by agreement or, in the absence of agreement, equally by those Councillors.
- 4.2.3 Rule 2.28 states that an application can be deferred because of the absence of the applicant, a member of the public, or Parish Council representative, to make an oral presentation to the Planning Committee. The recommended changes set out the circumstances where such a deferral may be allowed.
- 4.2.4 Rule 5 is a new provision regarding (a) the use of electronic voting at the Planning Committee and (b) provides that where a matter has previously been deferred, any Committee member who was not present at that earlier meeting may not vote on that application.
- 4.2.5 Rule 6 is a new provision which would typically preclude the Leader or a Cabinet member whose portfolio includes planning policy from being a member of the Planning Committee.
- 4.2.6 The new Rule 6 is based upon LGA guidance and consequent changes have also been made to the Code of Conduct for Members and Officers Dealing with Planning Matters. The guidance does state that it may be necessary in smaller councils for a Portfolio Holder to be on a Planning Committee. The guidance states that in these situations they will need to be extremely careful and will need to withdraw when the committee is considering the council's own schemes or other applications that they have been seen to support previously.
- 4.2.7 The proposed amendments to Planning Committee Functions and Procedure Rules and Code of Conduct for Members and Officers Dealing with Planning Matters are highlighted in Appendices A and B.
- 4.3 Recommendation to amend the Audit and Standards Committee Terms of Reference
- 4.3.1 On the 26 November 2024, the Audit and Standards Committee considered its terms of reference based upon the 'CIPFA Position Statement: Audit Committees in Local Authorities and Police 2022'. The Statement emphasises the importance of the Committee

being seen as being responsible to the Council and not to the Executive. It says the Committee should be independent of both the Executive and Scrutiny Committee.

- 4.3.2 The Committee's principal recommendation (based on the CIPFA Position Statement) was that to secure that the Committee can function independently of the Executive, the Council should not appoint members of the Executive to the Audit and Standards Committee. Since the Committee has a dual role and also deals with Code of Conduct complaints, it would also exclude the Executive from that function of the Committee too.
- 4.3.3 The Committee also recommended that since paragraphs 1.14 and 1.15 of the current terms of reference were effectively duplicated, they should be combined, and subsequent paragraphs renumbered accordingly. The recommended revised terms of reference are attached at Appendix C.
- 4.4 Recommendation to agree a delegation to Officers in respect of Non-Domestic Business Rates
 - 4.4.1 It is recommended that the Scheme of Delegation is amended to allow the Corporate Director for Resources to require the Valuation Officer for the Council to apportion the rateable value of partly occupied business premises under section 44A of the Local Government Finance Act 1998. The reason for this is to speed up collection of non-domestic rates for partially occupied premises and/or allow for relief from business rates in appropriate cases.
- 4.5 Compensation delegations for Ombudsman (report to Cabinet 11 September 2024)
 - 4.5.1 It is recommended that the Scheme of Officer Delegations is amended to allow Assistant Directors to approve payment of compensation in relation to upheld complaints about non-executive functions in accordance with the relevant Ombudsman's Compensation Scheme and the Council's own policy, up to a value of £500.00. This will streamline the process for approving payments for upheld complaints which currently require approval by both Director for Corporate Resources and Assistant Director for Governance & Democracy. Those senior officers will retain responsibility for approving any payments which exceed that sum.
 - 4.5.2 It is also recommended that the Council's Contract Procedure Rules are updated to reflect the Procurement Act 2023 which came into effect earlier this year. Whilst arguably that would fall within the Monitoring Officers delegation referred to at paragraph 5.3 below since it is necessary to comply with the law, it is considered appropriate that Council is aware of the nature of these changes. The Director for Corporate Resources and the Head of Procurement have both been involved in drafting the proposed amendments. The recommended revised procedure rules are attached at Appendix D.
- 4.6 Re-affirming a previously agreed delegation to the Chief Executive
 - 4.6.1 It is recommended that the delegation level for the Chief Executive in consultation with the Leader or Deputy Leader to incur one-off expenditure to support the needs of the organisation and corporate priorities from earmarked and general reserves, is corrected to an overall limit of £150,000 per financial year. This corrects a typographical error in the Constitution following the Council meeting in 2023. Where this and other delegations are exercised, formal records are maintained and published in line with legislation and transparency requirements.
 - 4.6.2 Re-affirming the financial threshold for key decisions and, for non-executive decisions, the threshold which materially affects the Council's financial position. In line with previous

years, the Director for Corporate Resources recommends that this figure should be set at £50,000.00.

5 Main Considerations

- 5.1 The Constitution should be regularly reviewed and updated to ensure that it remains relevant and fit for purpose to ensure the Council is able to continue to work efficiently and quickly to meet its ambitions.
- 5.2 The Constitution Review Working Group consider updates and amendments throughout the year and changes are brought back to Council (or other relevant bodies) for consideration and approval.
- 5.3 The Monitoring Officer also has delegated power to amend the Constitution as he/she deems to be necessary and which are in the Council's interests and not major in nature, including, but not limited to routine revisions to provide appropriate clarity, correct typographical and other drafting errors, reflect new legislation or ensure compliance with existing legislation, to correct inconsistencies in drafting Officer Delegations and to reflect new officer structures and job titles which have been properly approved through Council processes.

6 Options Considered

- 6.1 Consideration of the Constitution at the Annual Meeting is a Constitutional requirement so no other options have been considered.

7 Consultation/Engagement

- 7.1 Significant changes to the Constitution required consultation with Members through the Constitution Review Working Group.

8 Next Steps – Implementation and Communication

- 8.1 All agreed changes will be implemented, and the Constitution will be changed accordingly.

9 Financial Implications

- 9.1 There are no direct financial implications arising from the report.

Financial Implications reviewed by: Director for Corporate Services

10 Legal and Governance Implications

- 10.1 The Constitution (Chapter 2, Part 1, Section 4.2) provides that the Council agrees the Scheme of Delegation and confirms the Constitution at the Annual Council meeting. It is however legally permissible to make changes to the Constitution at any other time.
- 10.2 Legislation requires the Council to have a Constitution which contains certain information. The Council would be unable to make decisions without proper governance arrangements in place.
- 10.3 The adoption and approval of amendments to the Constitution is a matter reserved to Council, subject to the limited delegation to the Monitoring Officer referred to at paragraph 5.3 above and that in paragraph 10.4.
- 10.4 The Cabinet Leader may also amend the Cabinet Scheme of Delegation which, since legislation allows him to delegate functions to Officers, can have the effect of amending the Scheme of Officer Delegations. The Leader may only make changes which relate to executive functions.

- 10.5 Members' attention is drawn to the reference to the LGA's guidance referred to at paragraph 4.2.6. As with any such guidance, the Council must give clear reasons if it chooses not to apply the limitation in relation to the Leader and/or Portfolio Holder. For example, justifying a 'need' to appoint those members when the Cabinet currently comprises only 5 members, leaving 23 available to sit on the Planning Committee. If such an approach can be justified, the Leader and/or Portfolio Holder should be particularly alert to the need to avoid any conflicts of interest.
- 10.6 The Monitoring Officer keeps a record of all changes made in accordance with their delegated authority.

Legal Implications reviewed by: Monitoring Officer

11 Equality and Safeguarding Implications

- 11.1 There are no equality and safeguarding implications arising directly from this report.

12. Data Protection Implications (Mandatory)

- 12.1 A Data Protection Impact Assessments (DPIA) has not been completed for the following reasons because there are no risks to the rights and freedoms of natural persons.

13. Community Safety Implications

- 13.1 There are no community safety implications arising from this report.

14. Environmental and Climate Change Implications

- 14.1 There are no environment and climate change implications arising from this report.

15.1 Other Implications (where significant)

- 15.1 There are no other implications arising from this report.

16. Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	Failure to have an up-to-date Constitution	Very Low	Marginal	4

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low				

	2 Very Low			1	
	1 Almost impossible				

Risk No	Mitigation
1	Regular reviews of the Constitution to ensure it is up-to-date and fit for purpose and that decisions are therefore lawfully made.

17. Background Papers

17.1 None

18. Appendices

18.1 Appendix A –The marked-up Planning Committee Functions and Procedure Rules

18.3 Appendix B – The marked-up Code of Conduct for Members and Officers Dealing with Planning Matters

18.4 Appendix C – The marked-up Terms of Reference of the Audit and Standards Committee

18.5 Appendix D – The marked-up Contract Procedure Rules