
CONSTITUTION

Responsible Cabinet Member(s) – Councillor John Williams, Leader

Responsible Director(s) - Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To seek Members approval to changes to the format of the Constitution and to the specific changes detailed within the report.

Background

2. Every year the Council updates the Constitution at the Annual Council meeting and changes made during the year are incorporated at that time. A review of the Constitution has not been undertaken since, the Constitution was first drafted when new political arrangements were introduced. As a consequence some parts of the Constitution are out of date. The document itself has proved to be inaccessible and a more user friendly document will benefit, Members, Officers and members of the public alike. It is hoped it will be helpful for the induction of new members and officers.

Proposed Changes

3. The Constitution is currently divided into 7 Parts as follows:-

Part 1: Summary and Explanation
Part 2: Articles of the Constitution
Part 3: Responsibility for Functions
Part 4: Rules of Procedures
Part 5: Codes of Conduct
Part 6: Members Allowances
Part 7: Management Structure

The proposed areas of change to the Constitution are as follows :-

Part 1: Summary and Explanation (Appendix 1)

Revised to be more user friendly and easy to read.

Part 2: Articles of the Constitution

No change

Part 3: Responsibility for Functions (Appendix 2)

This section will be significantly changed in appearance and will also be updated. The review will make no change to the powers that are currently delegated or the relationship between the various decision making bodies. The intention is to ensure that the relationships are more easily understood, and it is clear who can make what decisions. Changes will include updating of all references to statute to ensure that they are up to date.

4. The previous format was as follows:-

Non-Executive Functions
Local Choice Functions
Executive Functions
Scheme of Delegation to Officers

5. The new format is as follows:-

Explanation of Non-Executive, Local Choice and Executive Functions
Schedule 1 – Council Committees
Schedule 2 – Executive
Schedule 3 – Scrutiny Committees
Schedule 4 – Officers Scheme of Delegation
Schedule 5 – Appointments to Outside Bodies by Council and Cabinet

6. The long list of non-executive functions has been deleted as these are contained within regulations and require constant updating. Anyone wanting to know if a function is executive or non-executive can seek advice, or consult the regulations. The section now includes a brief explanation of the difference between executive and non-executive functions. It contains the list of local choice functions. It also includes a new section describing each committee. This will describe its size and political balance and its terms of reference, it is also possible here to set down standards items to be taken to certain committees, so that it is clear which body is responsible for approving key Council documents and when that approval will take place.

Officers Scheme of Delegation

7. The officer scheme of delegation is amended to ensure accuracy and where possible powers will be summarised together to reduce the length of the list. There will be no changes to the powers delegated. Changes will ensure that all delegations specify whether the power has been delegated by the Cabinet or Council. Only Cabinet can delegate executive functions and therefore it must be clear when any changes to the scheme of delegation are proposed which powers are delegated by Council and which by Cabinet. The scheme of delegation will also specify which powers are granted to officers directly by statute and which are delegated by Member bodies.

There are no changes to the operational effect of the scheme of delegation. The changes are designed to provide an easy reference guide to how council functions are organised.

Part 4: Procedure Rules

Amendments have been made to those in BOLD.

1. Council Procedure Rules
2. Access to Information Procedure Rules
3. Budget and Policy Framework Procedure Rules
4. Cabinet Procedure Rules
5. Scrutiny Procedure Rules
- 6. Financial Procedure Rules (Appendix 3)**
7. Contracts Procedure Rules
- 8. Property Procedure Rules (Appendix 4)**
- 9. Officer Employment Procedure Rules (Appendix 5)**

Financial Procedure Rules

8. The main proposed changes to Financial Procedure Rules (FPR) concern capital. Proposed changes to the Introduction and Revenue parts of FPR are largely aimed at improving the wording rather than the substance of any processes. The principal proposed changes are described below (referenced to paragraphs in the attached draft FPR).

Capital: -

- (a) Existing Capital Strategy, Asset Management Plan and capital medium-term planning processes are formalised by inclusion in FPR (1 to 4).
- (b) Description of planning and approval stages is amended to reflect current procedures (5 to 15).
- (c) Explicit requirements for option appraisal and whole life costing reflect previously agreed processes (16).
- (d) Reporting arrangements and approval for variances from approved schemes with regard to cost, timeliness and quality (specification) are tightened and clarified. Thresholds are proposed, including more stringent requirements for major schemes (17 to 23).
- (e) The role of the Asset Management Group is defined (25).
- (f) The delegated power to approve urgent and financially beneficial expenditure is increased from £35,000 to £50,000 (26).

Property Procedure Rules

- (a) The Constitution currently states “No purchase or disposal of real property shall be made on behalf of the Council without the approval of Cabinet. The method of disposal shall be selected with reference to such guidelines and codes of practice as shall be adopted by the Council from time to time”.
- (b) Other than this statement the Constitution has not included a set of rules relating to the acquisition and disposal of Council property. By including Property Procedure Rules

within the Constitution it will better enable the rules to be reviewed and updated as circumstances and practices change.

- (c) The introduction of Property Procedure Rules into the constitution is intended to formalise the processes used in connection with the acquisition, disposal and management of property on behalf of the Council.
- (d) The rules will cover such areas as:-
 - (i) Interpretation i.e. Roles and Responsibilities;
 - (ii) Compliance with Legislation;
 - (iii) Signing and Sealing Property Contracts;
 - (iv) Acquisitions of Property;
 - (v) Delegated Authority to Director of Development and Environment;
 - (vi) Declaring Premises Surplus to Operational Requirements;
 - (vii) Disposals of Property;
 - (viii) Management of Council Property;
 - (ix) Exceptions

Officer Employment Procedure Rules

- 9. Regulations set out mandatory 'standing orders' which the Council must incorporate into its procedure rules, in relation to the appointment and dismissal of Chief Officers. These rules do not currently appear in the full form in the Council's procedure rules. Changes to this section are therefore to ensure that the Council's rules are compliant.

Part 5: Codes of Conduct

Amendments have been made to those in BOLD

Code of Conduct for Members (subject of a separate report to Council)

Code of Conduct for Employees and Confidential Reporting Policy
Protocol for Councillors and Officers Dealing with Planning Matters
Protocol for Members and Officer Dealing with Licensing Matters
Protocol for Member/Officer Relations

Code of Conduct for Members

- 10. The new Model Code of Conduct for Members came into force on 3rd May 2007 and must be adopted by the Council before 1st October 2007. A separate report to this meeting recommends the adoption of the new Code of Conduct for Members. This will be included within the Constitution and replace the existing Code of Conduct.

Part 6: Members Allowance Scheme:

This has been amended to show annual uprating.

Part 7: Management Structure:

This has been amended to reflect in year changes

New Look

11. In addition to making the text more accessible it is proposed that the new Constitution will be in an A5 format to make it easier to carry and refer to. Indexing and tabs will also be improved to assist in finding relevant parts of the Constitution more easily. New folders will be issued to all Members and Officers who currently receive copies of the Constitution. A copy is also available on the Council's website.

Legal Implications

12. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

13. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

14. The issues contained within this report are required to be considered by Council.

Conclusion

15. The Constitution has been reviewed to produce a more user friendly document, with some

Recommendation

16. Council are requested to approve the changes to the Constitution

Reasons

17. The reason for this recommendation is to ensure that the constitution is accessible, up to date and factually accurate.

**Catherine Whitehead
Borough Solicitor**

Background Papers

The Constitution

Catherine Whitehead : Extension 2306