
Meeting of the Cabinet – 15th February, 2024

Report of the Lead for Law and Governance (Monitoring Officer)

Annual Review of the Constitution

Purpose

1. To consider the annual review of the Constitution. The full [Constitution](#) is available on the Council's website.

Recommendations

2. That the Council be recommended:
 - To endorse the revision of Article 6 and the associated Scrutiny Procedure Rules as incorporated in Part 4 of the Constitution.
 - To extend the trial of the revised 'Question Time' session at Full Council meetings for the remainder of this municipal year and that, subject to the outcome of the trial, the necessary revisions to Council Procedure Rule 11 be incorporated in the Constitution for the 2024/25 municipal year.
 - To note the inclusion of the revised Contract Standing Orders, as approved by the Audit and Standards Committee, within Part 5 of the Constitution.
 - To note the provisions of Council Procedure Rule 24.6 and the associated legal provisions concerning the recording of meetings.
 - To endorse the provisions in Article 12 of the Constitution (Officers), including the deputising arrangements in the absence or inability to act of the Chief Executive.

Background

3. The Council introduced the Constitution in May 2002. Section 37 of the Local Government Act 2000 requires the Council to keep the Constitution up to date. This is reflected in Article 15, which requires the Monitoring Officer to monitor and review the operation of the Constitution to ensure that the aims and principles are given full effect.
4. The Full Council is responsible for adopting and changing the Constitution. An exception to this is that, under Article 4.02(a), amendments to the Scheme of Delegation in Part 3 of the Constitution are approved by the Leader of the Council by way of a Delegated Decision Sheet. This is subject to the Leader of the Opposition Group being notified of any proposed changes before a decision is made by the Leader.
5. In addition, amendments to the Constitution can be made by the Monitoring Officer, from time to time, under powers delegated by the Council. Minute No. 12 of the Annual Council meeting of the Council on 18th May, 2023 authorises the Monitoring Officer to make any necessary and consequential amendments to the Constitution arising from decisions made by the Council and to reflect any ongoing restructuring activity, changes in legislative requirements, statutory provisions or associated regulations or guidance. Any changes made during the year are reflected in the current Constitution, which is available on the Council's website.
6. The Constitution promotes the Council's democratic governance arrangements. All previously approved amendments to the Constitution have been implemented. Members are asked to consider the matters referred to below:

Scrutiny Procedure Rules

7. At the Annual Meeting of the Council on 18th May, 2023, approval was given to the establishment of the Overview and Scrutiny Committee, together with seven Select Committees, for the 2023/24 municipal year.
8. A report on the consequential revisions to Article 6 of the Constitution and the associated Scrutiny Procedure Rules was submitted to the Overview and Scrutiny Committee on 12th June, 2023. Concerns were expressed at that meeting regarding the proposed scrutiny 'call in' arrangements, in particular a proposal that all 'called-in' decisions

would be considered by the Overview and Scrutiny Committee rather than the Select Committee that had called in the decision.

9. This matter was considered further by the Overview and Scrutiny Committee on 19th October and 7th December, 2023. The Committee recommended that scrutiny 'call-ins' continue to be referred to and determined by the appropriate Select Committee. This recommendation has now been reflected in the Scrutiny Committee Procedure Rules in the Constitution.
10. The Local Government Association (LGA) Corporate Peer Challenge report stated that the Council should keep its scrutiny arrangements under close review and reassure itself that they are fit for purpose. This should ensure that the structure is sustainable and aligned with available resources. The overview and scrutiny arrangements will be kept under review for the remainder of this municipal year, in advance of the Annual meeting of the Council in May, 2024. Consideration of the future overview and scrutiny arrangements will also take account of the Scrutiny Protocol for English institutions with devolved powers, published by the Government in November, 2023. The Scrutiny Protocol is 'non-statutory guidance' and should therefore be considered to set best practice in scrutiny.

Questions from Members at Full Council Meetings (Council Procedure Rule 11)

11. At the meeting of the Council on 4th December, 2023, a revised format for the 'Question Time' session was introduced on a trial basis.

The revised format involves:

- A 30-minute time limit for the Question Time session.
- The first three questions to be offered to the Leader of the main Opposition Group (on the basis that the Group Leader may ask the questions or nominate other Member(s) to ask one or more of the questions to the Leader, Cabinet Members or Committee Chairs).
- The Mayor to then select, from the list of those indicating to speak, Members to ask questions to the Leader, Cabinet Members or Chairs with a view to achieving a fair distribution of questions from political groups and other Members.
- If the 30 minutes time limit is reached, questions can be sent to the Leader, Cabinet Members or Chairs in writing or by email.

- A time limit of two minutes per question, any supplementary question and any responses will apply during the Question Time Session.
12. It is recommended that this trial be extended for the two remaining ordinary Full Council meetings in this municipal year, namely the programmed meetings of the Council on 26th February and 15th April, 2024. Subject to the outcome of the trial, the necessary revisions to Council Procedure Rule 11 will be incorporated in the Constitution for the 2024/25 municipal year.

Contract Standing Orders

13. On 25th September, 2023, the Audit and Standards Committee considered an update to the Council's Contract Standing Orders. The report was dealt with by the Committee pursuant to its delegated powers.
14. The revised Contract Standing Orders were approved with effect from 26th September, 2023 and have been incorporated into the Constitution.

Recording of Meetings

15. Following the recent introduction of updated technology in the Council Chamber and Committee Rooms, it is felt appropriate to remind Members of the legal position and existing provisions of the Constitution concerning the recording of meetings.
16. Council Procedure Rule 24.6 provides that:

“The public proceedings of full Council meetings shall be recorded and broadcast on the Council’s internet site. This is, however, subject to the Mayor (or the person presiding) having the discretion to terminate or suspend the web cast if he/she is of the opinion that continuing to web cast would, in any way, prejudice the conduct of the Council’s business. Recordings of the full Council meeting will be made by using the fixed audio/visual equipment in the Council Chamber as authorised by the Council.”

The Council has no objection to recording, filming, photography, use of social media, blogging or any similar electronic facilities during any meetings to which the public have access provided that the use of any equipment does not disrupt the meeting or the lawful transaction of business.”

17. The public agenda documents for all formal Council, Cabinet and Committee meetings includes a statement that:

“The use of mobile devices or electronic facilities is permitted for the purposes of recording/reporting during the public session of the meeting. The use of any such devices must not disrupt the meeting – Please turn off any ringtones or set your devices to silent.”

18. The above reflects the legal position, in particular compliance with the Openness of Local Government Bodies Regulations 2014. These Regulations provide that the filming, photographing and making of an audio recording of all public meetings is permitted. In line with this, Democratic Services Officers routinely use the facilities in the Council Chamber and Committee Rooms to record meetings held in public session to assist with the production of minutes.
19. These rights do not, however, apply to informal meetings or any meetings held in private session.

Chief Executive - Deputising Arrangements

20. On 30th April, 2019, the Council approved the appointment of Kevin O’Keefe, Chief Executive as the statutory Head of Paid Service. This is reflected in the Constitution under Article 12 (Officers). The Council also approved the appointment of Kevin O’Keefe as the Electoral Registration Officer and Returning Officer.
21. Article 12 also sets out the responsibility of the Deputy Chief Executive to discharge any functions that are required to be undertaken in line with the Constitution or pursuant to any necessary legal requirements due to the absence or inability to act of the Chief Executive. Also, in the absence of Kevin O’Keefe, the Council is required to designate a named officer to undertake the duties of the Electoral Registration Officer and Returning Officer. A recommendation will be submitted to the Council on 26th February, 2024.
22. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 provide that functions relating to elections should not be the responsibility of a local authority’s Executive (Cabinet).

Ongoing Review of the Constitution

23. Maintaining and updating the Constitution is an ongoing duty of the Monitoring Officer. Work will continue to identify any required updates, consolidate various provisions, remove duplication or any content that is no longer relevant. A report on the Constitution is submitted to the Annual Council Meeting in May, where any amendments made to the document are confirmed.
24. The ongoing review of the Constitution will take account of recommendations arising from the Local Government Association Corporate Peer Challenge and the External Auditor's Annual Report.

Finance

25. Any costs arising from compliance with the Constitution are met from existing budgets. The commissioning of any external support will require additional resources to be identified.

Law

26. Section 37 of the Local Government Act 2000 requires the Council to keep its Constitution up to date.

Risk Management

27. This report deals with the Council's Constitution and governance arrangements, which will ensure that the Council considers any ongoing material risks as part of the Council's Risk Management Framework.

Equality Impact

28. The Constitution makes provision for the discharge of the Council's powers and duties relating to equality and diversity including the consideration of any specific implications of proposals affecting children and young people.

Human Resources/Organisational Development

29. The ongoing review of the Constitution is undertaken within existing resources by the Monitoring Officer, supported by the Democratic Services Team. Regular monitoring and updating is necessary to ensure that the Constitution remains fit for purpose and underpins the

efficient and effective operation of the Council's governance arrangements.

Commercial/Procurement

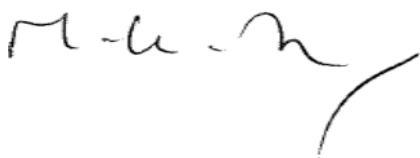
30. The Constitution includes governance documents that set a framework in which the Council's commercial/procurement activity is properly undertaken. This includes the Council's Standing Orders relating to Contracts.

Environment/Climate Change

31. Within our governance arrangements, the Council requires that all reports should include an assessment of the impact on the environment. The Council has declared a Climate Emergency and reports on individual proposals should address the impact on the Council's work to address Climate Change and achieve the Net Zero target by 2041. In addition, individual reports should consider how the proposals support the [United Nations sustainable development goals](#).
32. To reinforce the Council's commitment, the Leader has established a specific Cabinet portfolio for Climate Change. The Council has also established the Climate Change Select Committee for the 2023/24 municipal year.

Council Priorities

33. This report deals with the Council's Constitution, which underpins the delivery of key Council priorities including the Borough Vision, Council Plan and Future Council Programme.



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List of Background Documents

Report and Minutes of the Annual Council meeting - [18th May, 2023](#)

Reports and Minutes of the Overview and Scrutiny Committee - [12th June, 19th October and 7th December, 2023](#)

Local Government Association (LGA) Corporate Peer Challenge – Report to the Cabinet – [13th December, 2023](#)

External Auditor’s Annual Report – Report to the Audit and Standards Committee – [18th December, 2023](#)

Government [Scrutiny Protocol](#) for English institutions with devolved powers

Report and Minutes of the Audit and Standards Committee - [25th September, 2023](#)

[Openness of Local Government Bodies Regulations 2014](#)

[Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#)

[The Council’s Constitution](#) - Full copy on the Council’s Website