



Constitution updates

16 July 2015

Report from Richard Scott, Chairman of the Regulatory & Audit Committee

Purpose of this Report

1. This paper sets out an overview of updates proposed to the Council's Constitution for the agreement of Council. Changes are proposed to ensure that the Council's Constitution is updated to reflect legal requirements and for clarity. **Appendix 1 sets out an overview of the changes in full. Appendix 2 provides a copy of the Constitution with changes blocked out in yellow.**

Background

2. The changes proposed are put forward by the Regulatory and Audit Committee for the ratification of County Council. The Regulatory & Audit Committee is responsible for making any recommendations on substantive changes to the Constitution to the County Council for its agreement. The Monitoring Officer is able to make minor changes to the Constitution under delegated powers to meet legal requirements and report those changes to the Regulatory & Audit Committee and Leader of the Council.

Overview of Changes Proposed

The key reasons for changes are:

- **The Localism Act 2011**—changes proposed to meet legal requirements in relation the Council's Code of Conduct; procedures for handling complaints against Members, amendments to the terms of reference for Regulatory and Audit Committee and incorporation of the definition of disclosable pecuniary interest which were approved by the County Council on 19 July 2012, however were not incorporated in the Constitution at the time.

- **The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015** – Councils are required to amend the disciplinary process for the Head of Paid Service, the S151 officer and the Monitoring Officer. The Regulations remove the requirement to appoint a designated independent person to investigate and make a binding recommendation. In its place, Councils are required to form a Panel, with two or more independent persons, to undertake an investigation and make recommendations to full Council.
- **To provide clarity on decision-making**—the Council has a Scheme of Delegation to officers which is set out in a protocol. These are now incorporated into the Constitution which is recommended as best practice legally to ensure clarity on decision-making. This scheme sets out those circumstances under which Council functions and executive functions may be delegated by officers, and the requirements placed on those officers.

Recommendation

Council is asked to agree the changes to the Constitution recommended by the Regulatory and Audit Committee as set out in the Appendices.

Appendix 1 – Summary of Key Changes by Page No.

Appendix 2 – Copy of Constitution (sections changed shown in block yellow).

Please note as Appendix 2 is 269 pages hardcopies are available upon request and an electronic copy has been published with this agenda.

**RICHARD SCOTT
CHAIRMAN
REGULATORY AND AUDIT COMMITTEE**



Appendix 1 – Summary of Key Changes by Page No.

Appendix 1 Page No.	Description of Change
P10	Member Interests section updated in line with requirements in Localism Act 2011
P14	Wording change on appointments & dismissal of statutory officers in line with 2015 regulation requirements.
P21	Wording change to clarify that Deputy Cabinet Members cannot take key decisions as these need to be taken by Executive Members (Cabinet/Cabinet Members) only in line with the Local Government Act 2000
P26	Wording change on appointments & dismissal of statutory officers (as above)
P28	Moving responsibility for the granting of dispensations in line with legal advice.
P31	Change to clarify that officers are able under certain circumstances (set out in the Schemes of Delegation) to make decisions under delegated functions of council as well as executive decisions.
P34&35	Wording change on executive decision-making in line with legal advice on the Local Government Act 2000 (as above)
P36	Wording change to reflect requirements of Openness Regulations 2014 on publication of officer decisions.
P37	Wording clarification to ensure consistency in this document (Contract Standing Orders) to require all contracts that the County Council enters into to be in writing.
P43	Wording change on appointments & dismissal of statutory officers.(as above)
P46&47	Addition to remit of the Regulatory & Audit Committee to set out that it has a role in overseeing standards and the overall framework for Code of Conduct.
P65	Additional role to reflect current practice that appointments to outside body are a decision for the Leader or delegated to other Executive Member.
P72&73	Wording change on executive decision-making in line with legal advice on the Local Government Act 2000 (as above)
P74-88	Section I incorporates the existing scheme of delegations into the Constitution to ensure clarity on under what circumstances officers can take decisions.
P93&94	Currently the Constitution states that members have a deadline of 9.30 am on the Monday before the meeting of the Council to submit any questions to Cabinet Members and 12.30 am on the Monday before the meeting of the Council to submit motions. The Reg & Audit Committee proposes that it would be sensible to have the same deadline and that this is set as Noon on the Monday before the meeting of Council for greater clarity.
P107,112, 208	Wording change on appointments & dismissal of statutory officers in line with 2015 regulation requirements (as above).
P115	Clarification of the public's right to film and record meetings in line with statutory requirements under the transparency regulations 2014.
P210-228	A new single form is set out for Members to complete in relation to Declarations of Pecuniary Interests (DPIs) and gifts. This reflects requirements under the Localism Act 2011. It replaces the outdated form.
P229	Inclusion of process for handling standards allegations. In line with policy agreed by Council in July 2012
P241&242	Declarations of Member Interests updated in light of Localism Act 2011