

Regulatory and Audit Committee

Title:	Changes to the Constitution
Date:	10 April 2013
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Summary

The Monitoring Officer has made some changes to the Constitution.

Recommendation

The Committee recommends that the Council accepts the changes that are proposed for the Constitution and recommends that the document is adopted by the Council with effect from 2nd May 2013.

Supporting information to include the following if a decision is being requested:

Resource implications

None

Legal implications

The changes to the Constitution have been drafted by the Service Director, Legal and Democratic Services / Monitoring Officer, and incorporate recent changes in law.

Other implications/issues

The changes are unlikely to have any impact on groups with protected characteristics under the Equality Act 2010.



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Feedback from consultation, Local Area Forums and Local Member views (if relevant)

[If consultation has been carried out this is an important section to complete.

Local Members must be given advance notification of a forthcoming decision that affects their local division. In addition, they must be consulted on the detail of the decision in question.]

Background Papers

[This section should include unpublished documents on which the report has been based and documents which have been relied upon to a material extent in preparing the report. Exempt or confidential information should not be listed, as any background papers must be made available for public inspection if requested.

It is good practice also to include published papers. However if you do so, please indicate where they can be obtained, e.g. Internet, Library.]

At the end of every Council term it has been my practice to review the Constitution and make changes to improve procedures, recognise changes in law and meet council objectives including the wish to strengthen the involvement of non executive members and work in a transparent way.

There have been a number of substantive changes made to the way the Council operates:-

Select Committees

The Constitution has deleted reference to an Overview and Scrutiny Commissioning Committee, and a Health Scrutiny Committee and now, in order to ensure maximum flexibility, provides for the Leader to report to the Annual meeting of the Council on the number of Select Committees (i.e. committees responsible for the overview and scrutiny function) and the number of members on each committee to enable the Council to carry out its overview and scrutiny functions for the ensuing year. The general remit of the general Select Committee functions has remained the same, but changes have been made to the Health Scrutiny function to reflect changes in the Health Scrutiny regulations (and the proposed changes to the NHS) and also to make some reference to some of the findings of the Francis Report into Mid Staffordshire to provide for “robust and proactive” scrutiny of NHS services and providers.



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Appeals and Complaints Committee

After May 2nd the Council will comprise 49 rather than 57 elected members. In view of this significant reduction in capacity, and after discussion with the Leader of the Council, it was felt that the Appeals and Complaints Committee could be disbanded. The policies which could be appealed to this committee are being re written to create other avenues of appeal. There will continue to be a need for a committee to hear appeals by senior officers in connection with HR matters, and, in the rare instance, for a sub committee to be established to consider allegations that elected members have breached the Council's Code of Conduct or other protocols. These functions have therefore been transferred to the Senior Appointments and Buckinghamshire Pay Award Committee. The Government has just issued new guidance on school transport appeals which will lead to new processes; any requirement for an appeal will be dealt with by the Rights of Way Committee.

Deputy Cabinet members

The previous Constitution contained provisions for Cabinet Spokesmen, who could in some circumstances, deputise for Cabinet members. These provisions have been extended and clarified – to enable a Deputy cabinet Member jointly with a Strategic Director or Service Director, to make decisions in a Cabinet member's absence, and to provide that a Deputy Cabinet member may stand in place of the Cabinet Member at Full Council.

Health and Wellbeing Board

The Health and Social Care Act 2012 required the Council to establish the Health and Wellbeing Board as a committee of the Council. The Act prescribed membership; - Cabinet members, officers and representatives of the Clinical Commissioning Groups and local Healthwatch. The Health and Wellbeing Board is charged with developing a Joint Strategic Needs Assessment for the County and also a Health and Wellbeing Strategy. Because of the nature of the membership proportionality rules do not apply, but the Board is subject to local authority provisions on transparency, access to papers etc.

Officers

The role of Director of Public Health has also been added to list of Statutory officers in Article 12 of the Constitution and senior officers roles have been renamed to accord with current BCC practice.

Statutory Changes

Since the last revision of the Constitution there have been some changes in Statute that need to be reflected in the Constitution. The Localism Act 2011 abolished the Standards Committee and made changes to the Councillors' Code of Conduct. The proposed Constitution therefore makes reference to the new Register of Disclosable Pecuniary Interests, rather than the former regime of registered interests and declarable interests.



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The Constitution also outlines the changes to obtaining dispensations which permit elected members to vote even where a Disclosable Pecuniary Interest may exist.

The Government has repealed the need for the Council to have a petition scheme and an e-petition facility and therefore these have also been deleted and recent changes have been made to the Access to Information Regulations (2012) which require the Council to give 28 days' notice of any decision containing confidential information and permits residents to challenge the fact that confidential information is being discussed in private.

Typographical and other changes

Finally I have taken the opportunity to change officer titles as per current usage, modernise the section on council plans and remove the reference to Cabinet member functions – which will now be clarified by the leader at the annual meeting, when he announces the members of the Cabinet and their roles and functions.



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