

SUBJECT:	Review of the Council's Constitution
REPORT OF:	Monitoring Officer
RESPONSIBLE OFFICER	Jim Burness, Director of Resources
REPORT AUTHOR	Joanna Swift, Head of Legal and Democratic Services and Monitoring Officer
WARD/S AFFECTED	N/A

1. Purpose of Report

For Cabinet to agree the rules and delegations in the revised Constitution that relate to executive (cabinet) functions following Full Council approval on 16 May to the overall Constitution.

RECOMMENDATION

That Cabinet agrees the proposed revisions to the Constitution relating to Cabinet functions as recommended by Governance and Electoral Arrangements Committee

2. Reasons for Recommendation

To ensure the Council's Constitution is up to date and more user-friendly for members, staff and the public, to introduce harmonised procedures with South Bucks District Council where this will facilitate more effective running of shared services and to ensure the Council meets its statutory duty of publishing a current Constitution.

3. Content of Report

- 3.1 The Governance and Electoral Arrangements Committee agreed a work programme for reviewing and updating the Constitution at their meeting in October 2016. The Committee met in November 2016 and January, March and April 2017 to review each part of the Constitution in detail. The proposed revisions attached as Appendix 1 were reported to Full Council on 16 May and approved, subject to Cabinet approving the revisions which relate to functions undertaken by Cabinet and associated rules. The relevant revisions are explained in more detail below.

Part 1 Introduction and Part 2 Articles of the Constitution

- 3.2 These have been approved by Full Council and summarise the Council's governance and decision-making processes, acting as a sign post to the more detailed terms of reference, delegations, rules of procedures, codes and protocols contained in Parts 3 to 9 of the Constitution. The role of the Cabinet is dealt with in Article 6 and decision-making at Article 12. The definition of the Budget and Policy Framework at Article 4, which sets out the framework within which Cabinet works, was reviewed and updated and the financial threshold for Key Decisions was also increased from £30k to £50k in line with SBDC.

Part 3 Roles and Responsibilities and Terms of Reference for Council Committees

- 3.3 The role descriptions for council members and the different responsibilities of the cabinet and full council, together with details of joint arrangements were reviewed and updated. In particular the joint arrangements with SBDC are now reflected including the Joint Committee, specific delegations given to portfolio holders have been updated (there are none) and details of portfolios updated to reflect the current position

Part 4 Rules of Procedure

- 3.4 The Cabinet Procedure rules in Section B govern the role and composition of the cabinet, how portfolios are allocated and the conduct of cabinet meetings. The rules were amended in 2010 when the statutory provisions on so-called "strong leaders" came into force and therefore no substantive revisions are proposed. The Access to Information Procedure Rules in Section D deal with arrangements for access to Cabinet meetings, agendas and background information and reflect changes introduced by the Executive Arrangements (Meetings and Access to Information) Regulations 2012 to the publication of forward plans for cabinet decisions. The Budget and Policy Framework Procedure Rules at Section E deal with the process for developing the budget and policy framework.. The rules are intended to give non-cabinet members the opportunity to support, review and scrutinise the Council's policy framework and therefore link into the Overview and Scrutiny Rules. The changes to these rules agreed by Full Council streamline the process and clarify when a lighter touch can be applied to minor amendments and annual updates, as well updating the list of policies comprising the framework to mirror Article 4.

Part 5 Codes and Protocols

- 3.5 The Protocol on Member /Officer Relations at Section D was updated to emphasise the importance of mutual trust and confidence between members and officers to ensure effective working within the Council and the standards of conduct expected in accordance with the respective codes for members and officers. The protocol also deals with the position of the Chief Executive and other senior officers who provide advice to the Cabinet.

Part 7 Management Structure and Scheme of Delegation to Officers

- 3.6 Section B contains a general introduction to the Scheme of delegations covering the methodology used, together with general powers and limitations and lists the delegations to individual named officers. The methodology explains that individual delegations are identified as being from either the Council (C) (for functions such planning and licensing) or the Cabinet (E) (for executive functions which are defined under the Local Government Act 2000 as all functions not reserved to Full Council). The cabinet delegations therefore require specific approval by the Cabinet.

Methodology, General Limitations and General Powers

- 3.7 These paragraphs have been updated to reflect the new joint senior management structure. The general limitations in paragraph 2 apply to all delegations and require officers to exercise their powers strictly in accordance with approved council policies, procedures and budgetary provisions. If a delegated decision would be contrary to adopted policies and procedure rules (including for example Contract and Financial Procedure Rules) or outside approved budgets, officers must refer the decision to the Cabinet or the relevant Committee as appropriate. The General Powers in paragraph 3 have been amended to include powers required for the day to day running of service areas and avoid the duplication of certain delegations listed under each of the named officers, for example powers to authorise staff to exercise statutory powers of inspection and entry, issue statutory notices and requisitions, take associated enforcement action and deal with staffing matters. Again the exercise of these powers must be in accordance with the Council's adopted policies and procedures and any specific conditions listed in the individual delegations. This includes consultation with the appropriate cabinet portfolio-holder or Committee chairman or another officer.

Detailed Delegations to Named Officers

- 3.8 The detailed delegations are listed by officer and cover each area of responsibility where officers are authorised to exercise delegated powers together with any conditions for exercising that power. To avoid the Scheme becoming out of date when legislation changes some powers are delegated within overall functional descriptions where this is legally permissible e.g. food hygiene and food safety, public health and environmental protection. In these cases the exercise of a delegation applies to functions in a broad and inclusive manner and is intended to include the doing of anything which will facilitate or is conducive or incidental to the discharge of the specified functions. Elsewhere it is necessary to be specific about statutory provisions, for example in respect of planning and licensing functions
- 3.9 Officers are also expected to consider in what circumstances it might be appropriate to consult members such as the relevant Cabinet portfolio holder, Committee Chairman or local members before taking a decisions. If such a member objects to the proposed decision the matter must be reported to the Cabinet or relevant decision-making body for consideration unless there is a specific provision for dealing with objections within a particular delegation. The Cabinet or relevant Cabinet member may reserve a decision about a particular matter to them or require that an officer refrains from exercising delegated authority. Furthermore officers must not exercise their delegation on a decision in which they have a personal interest

Part 9 Local Protocols

- 3.10 This part of the Constitution contains 9 local procedural documents and was approved by Full Council. Of particular interest to Cabinet are Sections A and B covering the procedures to be adopted at "Call In" meetings and Investigative meetings of Overview Committees which both involve members of Cabinet appearing before the Committee to answer questions about/explain Cabinet decisions.

4 Options

The Cabinet can decide whether to agree the proposed revisions to Cabinet rules and delegations as set out in the Appendix or to suggest amendments/alternatives.

5. Corporate Implications

Financial – There are no financial implications arising directly from this report

Legal – As set out in the report

Risks issues – The lack of an up to date and effective Constitution could increase the risk of governance failures

Equalities - None specific

6. Links to Council Policy Objectives

There are no direct links to the policy objectives. But the Council has a statutory duty to maintain an up to date Constitution and publish this on the website.

7. Next Steps

The revised Constitution will be published on the Council's website.

Background Papers:	None except those referred to in the report
---------------------------	---