

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

### 1. Purpose of Report

To present an updated Constitution to Full Council for approval following detailed consideration by the Governance and Electoral Arrangements Committee.

### RECOMMENDATION

**That Council agrees the proposed revisions to the Constitution as approved and recommended by Governance and Electoral Arrangements Committee.**

### 2. Reasons for Recommendation

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

### 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, January, March and April to review each part of the Constitution in detail and the main revisions proposed and agreed by the Committee are explained below. A link to the revised document will be circulated separately.

#### **Part 1 Introduction and Part 2 Articles of the Constitution**

- 3.2 The purpose of the Introduction and Articles is to summarise the Council's governance and decision-making processes and act as a sign post to the more detailed terms of reference, delegations, rules of procedures, codes and protocols adopted by the Council and contained in the following Parts 3 to 9 of the Constitution. The revisions deal with legislative changes, particularly amendments made by the Localism Act 2011 and update references to committees to reflect changes to political management arrangements agreed by Full Council in 2014. The list of plans and strategies forming the Policy Framework has also been updated to reflect current terminology and includes the recent joint policies and strategies adopted by the Council and SBDC.

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

- 3.3 Part 3 of the Constitution sets out role descriptions for council members and the different responsibilities of the cabinet and full council, details of joint arrangements and the terms of reference for the various committees and cabinet. These reflect the provisions of the Local Government Act 2000 (as amended) and the Functions and Responsibilities Regulations 2000 which specify which functions are carried out by the Cabinet and which are reserved to Full Council. The terms of reference for council committees have been updated to reflect changes to political management arrangements agreed by Full Council in 2014 but otherwise no substantive changes have been proposed.

**Council Procedure Rules**

- 3.4 Changes to the format of Full Council meetings were agreed in 2014 and these are now reflected in the updated Constitution. These Rules set out how council meetings will be conducted in terms of the order of business, how debates will be conducted including notices of motions and questions and certain special rules for Planning and Overview Committees. The revisions remove unnecessary cross references, update provisions which have been amended by legislation such as the Localism Act 2011 and the Standing Order Regulations 2015, insert provisions allowing substitutes (temporary changes of membership) and recording the requirement for committees and sub-committee to formally appoint their Chairman and Vice-Chairman at the beginning of the Council term. The rules on speaking at Planning Committee were considered to justify a separate protocol in Part 5 of the Constitution rather than a paragraph in these Rules. Changes to the Rules propose relaxing the current requirements for Town and Parish Councils to notify Planning about authorised representatives and for ward councillors to give advance notice to speak at the Committee.

**Cabinet Procedure Rules**

- 3.5 These Rules set out the statutory rules governing the role and composition of the cabinet, how portfolios are allocated and the conduct of cabinet meetings. The Rules now reflect statutory amendments which introduced the so-called "strong leaders" in 2010 but otherwise no other substantive revisions have been proposed.

**Overview and Scrutiny Procedure Rules**

- 3.6 These Rules deal with arrangements for meetings of Overview Committees, their work programmes and setting the agenda, rights to information, attendance by cabinet members and officers and the procedure for calling-in executive decisions. The Rules now incorporate changes agreed by the Council in 2014 but no other substantive revisions have been proposed.

**Access to Information Procedure Rules**

- 3.7 These Rules set out the various statutory provisions governing access to Council information under the Local Government Act 1972 (as amended) and the equivalent Regulations relating to Cabinet information and deal with access to meetings, agendas and background information. The original rules dated from 2010 and required substantive amendment to comply with the Openness of Local Government Bodies Regulations 2014 (Council functions) and the Executive Arrangements (Meetings and Access to Information) Regulations 2012

(cabinet functions). Amongst other things these Regulations replaced the requirement to publish a Forward Plan of Cabinet decisions with a 28 Notice of decisions and included requirements for Cabinet decision notices to contain details about the different options considered and rejected by Cabinet, as well as the reasons for reaching a decision. The Rules were also revised to increase the financial threshold for a Key Decision from £30k to £50k in line with the threshold at SBDC.

### **Budget and Policy Framework Procedure Rules**

- 3.8 These Rules deal with the process for developing the budget and policy framework within which the Cabinet works. The rules are intended to give non-cabinet members the opportunity to support, review and scrutinise the Council's policy framework which is set out in Article 4 and therefore link into the Overview and Scrutiny Rules. The changes 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 referred to at 3.1 above.

### **Employment Procedure Rules**

- 3.9 These Rules deal with arrangements for the appointment and dismissal of staff which are prescribed by the Local Authorities (Standing Orders) (England) Regulations 2001 as amended. The appointment and dismissal of staff is a function reserved to the Council and these rules have been revised following amendment Regulations issued in 2015 and to reflect the new shared service and staffing arrangements with South Bucks District Council, in particular the delegation of senior appointments to a Joint Committee.

### **Code of Conduct on Gifts and Hospitality**

- 3.10 This Code covers the principles for deciding if and when members should accept gifts and hospitality in their official capacity, together with declaration and consent procedures. It has been re-named as a Protocol to avoid confusion with the Code of Conduct for Members. The revisions reflect the provisions of the Bribery Act 2010 and changes to the standards framework introduced by the Localism Act 2011

### **Protocol on member/officer relations**

- 3.11 This Protocol sets out a framework for member and officer relations and seeks to encourage good practice throughout the Council. The revisions include a new introduction covering 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.

### **Code of Practice on Planning Matters**

- 3.12 This Code covers arrangements for dealing with planning applications and decision-making procedures at both officer and Planning Committee level and seeks to ensure that the Council's process is fair and transparent. The Code was last updated in 2007 and the revisions reflect changes to the rules on declarations of interest introduced by the Localism Act 2011 and the Disclosable Pecuniary Interest Regulations 2012, as well as the new National Planning Policy Framework and Guidance, Planning Advisory Service guidance and changes to post titles in the planning service. No other substantive revisions have been proposed.

**Delegations to Cabinet Portfolio Holders**

- 3.13 These delegations record the specific delegations given to portfolio holders and approved by Cabinet. They were updated to reflect the current portfolios.

**Terms of Reference of Licensing and Regulation Committee and its Sub-Committees**

- 3.14 These terms of reference propose revisions to call remove the reference to Regulation from the committee title, require mandatory training for members of the committee and establish a single sub-committee to deal with hearings under the Licensing Act, Gambling Act and hackney carriage/private hire vehicle legislation.

**PART 7 - Scheme of Delegations to Officers**

- 3.15 This Part contains a general introduction to Scheme of delegations to officers together with details of the delegations to individual named officers. The methodology explains individual delegations are identified as being from either the Council (for functions such planning and licensing or the Cabinet (for all executive functions defined under the Local Government Act 2000). The Cabinet delegations will need to be approved separately by Cabinet at their meeting on 27 June.

**Methodology, General Limitations and General Powers**

- 3.16 This section has been updated to reflect the new joint senior management structure. The General Limitations which apply to all delegations make it clear that officers must exercise their powers strictly in accordance with approved council policies, procedures and budgetary provisions. For example 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. Revisions include powers required by Directors and Heads of Services for the day to day running of their service areas and seek to avoid the duplication of certain delegations under each of the named officers, such as powers for Directors and Heads of Services to authorise their staff to exercise statutory powers of inspection and entry, issue statutory notices and requisitions, take associated enforcement action. However, the exercise of these powers must be in accordance with the Council's adopted policies and procedures and also any specific conditions listed in the individual delegations which include consultation with the appropriate cabinet portfolio-holder, local members or Committee chairman.
- 3.17 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 delegated decisions. If such a member objects to the proposed decision the General Limitations made it clear that 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 any decision in which they have a personal interest

**Detailed Delegations to Named Officers**

- 3.18 The revisions reflect changes to services areas and job titles as a result of the shared senior management arrangements with SBDC. To avoid the Scheme becoming out of date when legislation changes the proposed revisions delegate some powers to officers within overall functional descriptions where this is legally permissible e.g. food hygiene, public health and environmental protection. Powers have also been grouped under services areas to make them easier to find. Powers to deal with new legislative functions such as Neighbourhood Planning and Assets of Community Value have been added as set out in the relevant Cabinet resolutions. The Chairman of Governance and Electoral Arrangements Committee and the Leader have been consulted on final amendments to the proposed Scheme which is recommended to Full Council.

**Delegations to External Bodies/Persons and the Proper Officer**

- 3.19 These delegations deal with functions where statutes required a proper officer to be designated to act on behalf of the Council. These have been updated to reflect the current legislative position.

**PART 9 Local Protocols**

- 3.20 The nine local procedural documents in this part of the Constitution have been updated to reflect changes to the standards framework and declaration of interests/dispensations introduced by the Localism Act 2011, as well as reflecting the revised and harmonised versions of the Whistle-Blowing Policy (now called the Protected Disclosure and Whistle Blowing Policy); the Anti- Fraud and Corruption Policy Statement (now called the Joint Anti-Fraud, Bribery and Corruption Policy). The Petitions Scheme was revised to delete provisions dealing with e-Petitions, as this statutory requirement has been repealed' names have been removed and replaced by job titles. The scheme has also been amended to clarify that where petitions overlap with existing statutory procedures, such as public consultations, this will be outside the scope of the scheme.

**Glossary of Terms**

- 3.21 A glossary of terms used in the Constitution has been prepared to assist members of the public in their understanding of the document and this is inserted as a new Part 10.

**4. 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

**5. 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.

**6. Next Steps**

The revised Constitution will reported to Cabinet on 27 June for approval and then published on the Council's website.

<b>Background Papers:</b>	None except those referred to in the report
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