

<b>SUBJECT:</b>	Review of the Council's Constitution
<b>REPORT OF:</b>	Monitoring Officer
<b>RESPONSIBLE OFFICER</b>	Jim Burness, Director of Resources
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<b>WARD/S AFFECTED</b>	None

## 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 27 February 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 remains up to date and user-friendly for members, staff and the public, to introduce harmonised procedures with Chiltern District Council where this will facilitate more effective running of shared services and to ensure that the Council meets its statutory duty of publishing a current Constitution.

## 3. Content of Report

- 3.1 The Council's Constitution was last reviewed in 2014/15 and an updated version came into effect in May 2015. This took account of the reduction in the number of members and incorporated the shared working arrangements with Chiltern District Council in place at the time, together with changes introduced by the Localism Act 2011.
- 3.2 It is good practise to carry out a regular review of the Constitution to ensure it remains up to date and fit for purpose. Furthermore the implementation of the final shared services reviews in 2017 meant that all staff (except those at the South Buckinghamshire) now work for both Councils under harmonised terms and conditions. It is therefore important for the effective operation of all services that any codes, protocols and procedure rules which involve staff, as well as the scheme

of delegations to officers, are consistent across both Councils. A similar review has been undertaken by CDC.

- 3.3 Full Council appointed the Governance and Electoral Arrangements Committee with responsibility for reviewing and updating the Constitution. The Committee met in July, September and November 2017 and January 2018 to review Parts A, B, C and E of the Constitution in detail. The proposed revisions attached as Appendix 1 were reported to Full Council on 27 February and approved subject to Cabinet approving the revisions which relate to functions undertaken by Cabinet and associated rules. The relevant provisions are explained in more detail below.

### **PART A – THE FRAMEWORK OF THE CONSTITUTION**

- 3.4 This has been approved by Full Council and summarises the Council’s governance and decision-making processes, acting as a sign post to the more detailed terms of reference, delegations, rules of procedure, codes and protocols contained in subsequent Parts of the Constitution. Substantial changes to this Part of the Constitution were not required, as the update in 2015 took account of legislative changes, the reduction in the number of members and also incorporated the shared working arrangements with CDC in place at the time. It was however necessary to incorporate provisions relating to the appointment of the Governance and Electoral Arrangements Committee and its new role in respect of the Constitution and also to incorporate changes to the Joint Waste arrangements and the new Joint Staffing Committee and Sub-Committee, which replaced JAIC and Personnel Committee.
- 3.5 The Framework was also updated to refer to new Joint Policy documents such as the Joint Economic Development Strategy and the Corporate Enforcement Policy which replaced the Food Service Delivery Plan and Health and Safety Enforcement Plan. Some of the policies listed in the Policy Framework had been amalgamated, for example under the Housing Strategies and some policies such as the whistle blowing and anti- fraud policy were omitted because they were more operational in nature and more properly sit at a level below the high level Policy Framework
- 3.6 Some of the technical provisions on Legal proceedings, authentication of documents and witnessing the Council’s common seal have been amended and in some case expanded, so the procedure adopted by officers at both Councils is consistent.

### **PART B - PROCEDURE RULES**

- 3.7 The rules in Part B that relate to Council meetings and functions were approved by Full Council. However, Section C contains the Cabinet Procedure Rules which govern the role and composition of the cabinet, how portfolios are allocated and the conduct of cabinet meetings. The rules were amended in 2015 to incorporate the statutory provisions on so-called “strong leaders” and therefore no substantive revisions are proposed. Some references to provisions in the Local Government Act

2000 are removed, as these have been revoked and notably the Committee recommends that the quorum for Cabinet is increased from 2 to 3.

- 3.8 Cabinet will note that the Access to Information Procedure Rules in Section B deal with arrangements for access to Cabinet meetings, agendas and background information. These reflect changes introduced by the Executive Arrangements (Meetings and Access to Information) Regulations 2012 to the publication of 28 Day Notices (Forward Plans) for cabinet decisions. No substantive changes are proposed but all references to the "proper officer" were amended to reflect the relevant specified officer in order to make the rules more user-friendly. Similar revisions were proposed in the Overview and Scrutiny Procedure Rules at Section D and Budget and Policy Framework Procedure Rules at Section E which deal with procedure for scrutinising Cabinet decision and developing/monitoring Council policy and budgets.

### **PART C – CODES, PROTOCOLS AND PROCEDURES**

- 3.9 With regard to Cabinet protocols the Committee has proposed a revision to the Protocol on the Operation of Policy Advisory Groups in Section E to clarify that PAGs can comprise up to 5 members. Cabinet will also note revisions to the Protocol on Member/Officer Relations at Section C which have been agreed by Full Council and harmonise with a similar Protocol adopted by CDC.

### **PART E – SCHEMES OF DELEGATIONS**

- 3.10 The Committee reviewed sections A to F including the Scheme of Delegations to Cabinet portfolio holders in Section E. With regard to Section E the only substantive revisions proposed are to update the portfolios to reflect recent changes introduced by the Leader. The Committee noted that the Scheme of Delegations to Officers in Section F had not been updated in 2015 and the proposed revisions now seek to harmonise officer delegations at both Councils. Cabinet will note that the revised scheme includes an introductory section setting out the limits and general rules governing the exercise of delegated powers, together with a methodology as explained below.

#### **Methodology, General Limitations and Power**

- 3.11 This section reflects the joint senior management structure and sets out limitations that apply to all delegations. These 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 or procedures rules (including for example Contract and Financial Procedure Rules) or outside approved budgets officers are required to refer the decision to the Cabinet or the relevant Committee.

- 3.12 The general powers cover the day to day running of service areas and seek to avoid certain delegations being repeated under each of the named officers e.g. powers to authorise staff to exercise statutory powers of inspection and entry and deal with routine staffing matters. It was noted that 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 e.g. consultation with the appropriate cabinet portfolio-holder or Committee Chairman or another officer.

### **Delegations to Individual Officers**

- 3.13 A tabular format had been adopted for each officer exercising delegated authority with council and executive delegations numbered individually for ease of reference. 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. Officers are required to consider in what circumstances it might be appropriate to consult members such as the relevant cabinet portfolio holder, Committee Chairman or local member/s before talking a decision.
- 3.14 The scheme provides that where a cabinet member objects to a proposed decision the matter must be reported to the Cabinet for consideration unless there is a specific provision for dealing with objections in a particular delegation. Furthermore officers must not exercise their delegation on a decision in which they have a personal interest. Cabinet are advised that no changes are currently proposed to the officer delegations from Planning Committee pending a separate review at both Councils following the implementation of the joint planning service.

## **4. Consultation**

There is no statutory requirement to consult on proposed updates to the existing Constitution.

## **5. Options**

Cabinet is being invited to consider and agree the revisions to Cabinet rules, protocols and delegations in the Constitution following a detailed review by Governance and Electoral Arrangements Committee, but can suggest further or alternative revisions if considered appropriate.

## **6. 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

**7. 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.

**8. Next Steps**

Once agreed an update version of the Constitution will be published on the Council's website

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