

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

1. Purpose of Report

To present proposed revisions to the Constitution to Council for approval following detailed consideration by the Governance and Electoral Arrangements Committee.

RECOMMENDATION

That Council agrees the revised Constitution as set out in the Appendix to the report.

2. Reasons for Recommendation

To ensure the Council's Constitution remains up to date and user-friendly for members, staff and the public and to introduce harmonised procedures with Chiltern District Council where this will facilitate more effective running of shared services.

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 procedures 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 carrying out the detailed review of the Constitution. In accordance with a work programme agreed at their meeting in July 2017, the Committee met in September, November and January and undertook looked in details each of the Parts A to E of the Constitution. The Committee's main findings and agreed revisions are summarised below and the proposed changes as agreed by the Committee are shown in track changes in the appendix to this report

PART A – THE FRAMEWORK OF THE CONSTITUTION

- 3.4 The Committee noted 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 Constitution, in the paragraphs dealing with changes to the Constitution and details of standing committees. The revisions also incorporated 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 Committee noted that the Procedure Rules have been updated to reflect changes to Committees that had taken place since May 2015, and all references to the "proper officer" were amended to reflect the relevant specified officer in order to make the rules more user-friendly
- 3.8 The Committee agreed changes to the rules to clarify the decisions taken at Annual and Ordinary Council meeting. It was also agreed that formal presentations at Council meetings should be placed higher up the agenda for the benefit of presenters. The Committee noted the proposed new procedure for making temporary changes to membership of committees and that any such changes would be submitted to the Democratic & Electoral Services Manager by the Group Leader, or their deputy or other nominated person, in advance of the meeting date.
- 3.9 The Committee considered imposing a time limit of 15 minutes to wait for a meeting to be quorate and decided that the Chairman should retain discretion to allow a longer period in exceptional circumstances. The Committee also decided to retain Rule 15 on Themed Debates, as they considered such debates might usefully be taken forward in future. The Committee reviewed the rules surrounding the recording of meetings by members of the public and emphasised the importance of relevant signage being displayed. The Committee agreed revised wording to a number of the make them easier to understand.

PART C – CODES PROTOCOLS AND PROCEDURES

3.10 The Committee noted and agreed the following revisions:-

- **Section A Code of Corporate Governance** – It was noted that a Joint Code has been approved by both Councils and is reviewed by the respective Audit Committees
- **Section B Members Code of Conduct** – It was noted that the code was approved by Full Council in July 2012 and is reviewed annually by the Audit Committee (no changes and not included at Appendix 1)
- **Section C Protocol Member/Officer Relations** – a revised Protocol was proposed to harmonise with a similar protocol adopted by CDC
- **Section D Protocol on Recording at Meetings** – the proposed revisions reflect changes to email addresses
- **Section E Protocol on the Operation of Policy Advisory Groups** – this was being revised to clarify that PAGs can comprise up to 5 members.
- **Section F Procedure for Speaking at Planning Committee** – proposed revisions update email addresses and job titles
- **Section G Adopted Procedure for Confirming TPOs by Planning Committee** – proposed revisions update job titles and ensure that any representations received in support of an Order are considered along with objections.
- **Section H Guidance for Members on Planning Matters** – proposed updates to refer to the latest guidance from the LGA and Planning Advisory Service.
- **Section I Procedure for Licensing Sub-Committee Hearings** – proposed revisions include provision for calling witnesses and update guidance on rights of councillors to represent applicants/objectors
- **Section J Guidance for Members when determining (or representing objectors in connection with) Applications pursuant to the Licensing Act 2003** – proposed revisions clarify the 3 types of interests under the code and make reference to Town as well as Parish Councils
- **Section K Employees Code of Conduct** – It was noted that Joint Code has been approved by both Councils and is reviewed by the Joint Staffing Committee
- **Section L Petitions Scheme** – it was noted that this scheme was updated in 2015 and no further revision was proposed

PART D – MEMBERS ALLOWANCES

3.11 As this Scheme is a stand- alone document agreed by Full Council following consideration of a report from the Independent Remuneration Panel, it did not form part of the Committee's review.

PART E – SCHEMES OF DELEGATIONS

3.12 The Committee reviewed sections A to F noting and agreeing the following proposed revisions:

- **Section A Miscellaneous Council functions** – the Committee noted that these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 and are overdue for updating by Parliament. No revisions were

proposed except the inclusion of an introductory Note to clarify that some of the functions listed are the responsibility of other local authorities.

- **Section B Planning Committee functions** – the Committee again noted that these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 and therefore no revisions are proposed.
- **Section C Licensing Committee functions** – the Committee noted that these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 and are overdue for updating by Parliament. No revisions were proposed except the inclusion of an introductory Note to clarify that some of the functions listed are the responsibility of other local authorities.
- **Section D Licensing Sub-Committee functions** – the Committee noted that the list of functions had been updated to include the handling applications for film classification/re-classification
- **Section E Scheme of Delegation to Cabinet portfolio holders** – the Committee noted that the delegations had been updated to reflect recent changes to cabinet portfolios
- **Section F Scheme of Delegation to Officers** – the Committee noted that this section of constitution was not updated in 2015 and the proposed revisions now seek to harmonise officer delegations at both Councils. The revised scheme includes an introductory section setting out the limits and general rules governing the exercise of delegated powers, together with a methodology.

Methodology, General Limitations and Power

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.

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

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.

The scheme provides that where a member objects to a 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 in a particular delegation. Furthermore officers must not exercise their delegation on a decision in which they have a personal interest.

The Committee were 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 for the Council to consult on proposed updates to the existing Constitution. Once agreed an update version of the Constitution will be published on the Council's website.

5 Options

The Council is being invited to consider and agree the revisions to the Constitution following the details 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

The proposed revisions which affect Cabinet functions will also be referred to Cabinet for approval before the updated Constitution is published.

Background Papers:	None except those referred to in the report
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