

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

In accordance with the agreed work plan to undertake a detailed review of Part C - Codes Protocol and Procedures and Part E - Schemes of Delegations of the Council's Constitution.

RECOMMENDATION

That the Committee consider and agree the proposed revisions to Parts C and E of the Constitution at Appendices 1 and 2

2. Reasons for Recommendation

To ensure the Council's Constitution is 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 Committee agreed a work programme for reviewing and updating the Council's Constitution at their meeting in July. This report deals with Part C Codes, Protocols and Procedures and Part E Schemes of Delegation to Committees, Cabinet and Officers. The proposed changes are shown in track changes in the appendices to this report and the main issues are explained in more detail below.
- 3.2 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. Following the implementation of the final shared services reviews for the Planning and Local Land Charge services, 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 at both Councils.
- 3.3 Part C contains the following documents:-
- **Section A Code of Corporate Governance** – A Joint Code has been approved by both Councils and is reviewed by the respective Audit Committees

- **Section B Members Code of Conduct** – 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** – revised version attached which harmonises with the protocol adopted by CDC (which was largely based on the South Bucks protocol).
- **Section D Protocol on Recording at Meetings** – updated to reflect changes to email addresses
- **Section E Protocol on the Operation of Policy Advisory Groups** – updated to clarify that PAGs can comprise up to 5 members.
- **Section F Procedure for Speaking at Planning Committee** – updated to refer to current email addresses and job titles
- **Section G Adopted Procedure for Confirming TPOs by Planning Committee** -
- **Section H Guidance for Members on Planning Matters** – updated to refer to latest guidance from LGA and Planning Advisory Service.
- **Section I Procedure for Licensing Sub-Committee Hearings** – updated to include provision for calling witnesses and updated 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** - updated to 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** – A Joint Code has been approved by both Councils and is reviewed by the Joint Staffing Committee
- **Section L Petitions Scheme** – updated in 2015 and no further revision proposed

3.4 Part E contains the following documents:

- **Section A Miscellaneous Council functions** – these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended and are overdue for further amendment and updating by Parliament. Wording has been included to clarify that some of the functions listed are the responsibility of other authorities.
- **Section B Planning Committee functions** - these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended
- **Section C Licensing Committee functions** - these functions are prescribed by the Local Authorities (Functions and Responsibilities) Regulations 2000 as amended and are overdue for further amendment and updating by Parliament. Wording has been included to clarify that some of the functions listed are the responsibility of other authorities.
- **Section D Licensing Sub-Committee functions** – these have been update to reflect the decisions of Licensing Committee in respect of handling applications for film classification/re-classification
- **Section E Scheme of Delegation to Cabinet portfolio holders** – these have been update to reflect recent changes to portfolios
- **Section F Scheme of Delegation to Officers** - this section of constitution was not updated in 2015 and has been amended to harmonise with CDC. It includes an introductory section setting out the limits and general rules governing the exercise of delegated powers, together with a methodology. A tabular format has been adopted for each officer exercising delegated authority with council and executive

delegations numbered individually for ease of reference. The approach is explained in more detail below. No changes have been made to the officer delegations from Planning Committee pending a separate review at both Councils following the implementation of the joint planning service.

3.5 **Section F Methodology, General Limitations and General Powers**

This section of the scheme of delegations reflects the joint senior management structure. The delegation numbers are consecutive under each named officer for ease of reference. 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 or procedures 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 cover powers required for the day to day running of service areas and avoid the duplication of certain delegations being repeated under each of the named officers. For example this includes powers to authorise staff to exercise statutory powers of inspection and entry, issue statutory notices and requests for information, take associated enforcement action and deal with routine 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 could include consultation with the appropriate cabinet portfolio-holder or Committee Chairman or another officer.

3.6 **Section F Detailed Delegations to Named Officers**

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 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.

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 member/s before taking a decision. 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 in a particular delegation. The Cabinet or relevant Cabinet portfolio holder 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.

4 Consultation

The Committee is asked to consider whether, and if so how, they wish to consult on the proposed revisions with members more widely, either via committees/cabinet or individually.

5 Options

The Committee is being invite to consider and agree the revisions to the Framework document and can suggest further changes 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 revision will be recommended for approval by Full council on 27 February.

Background Papers:	None except those referred to in the report
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