

Thursday, 8 February 2024

Report of the Monitoring Officer

Constitution & Scheme of Delegation Update

Exempt Information

None

Purpose

The Constitution sets out how the Council operates, how decisions are made, who can make them and the procedures that need to be followed to deliver open, transparent and democratic governance.

It is good practice for the Constitution to be reviewed and updated on a regular basis, to take account of changing legislation and to ensure the Constitution continues to meet the democratic needs of the Council.

The report presents the necessary changes made to the Constitution following a number of changes as identified within the report and its appendices.

Recommendations

This report asks the Committee to:

1. Endorse and recommend to Council the adoption of changes to the Constitution which are necessary following staff changes and policy amendments. The report also includes other constitutional changes to improve the Council's governance.
2. Changes to the Constitution are highlighted in detail in the draft working copy - **Appendix 1**, with a summary of changes at **Appendix 2**.

Reason for recommendation

To ensure that the Council's Constitution is and continues to be fit for purpose

Executive Summary

The Council's constitution is a working document which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Scheme of Delegation, within the Constitution details where the Council delegates to certain officers' powers to undertake duties and functions on its behalf.

Article 16 of the Constitution requires the Monitoring Officer to maintain, monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any changes to the Constitution must be approved by full Council after consideration of the proposal by the Monitoring Officer and the Audit & Governance Committee (as necessary).

Article 16 "Review and Revision of the Constitution" allows the Monitoring Officer to make changes / updates to the Council Constitution in relation to:

- a) Legislation;
- b) Changes to the Officer structure or changes of responsibility within the Officer Structure;

c) The need to correct any administrative or typing errors.

Resource Implications

None

Legal/Risk Implications Background

Without a constitution, including a Scheme of Delegation, the Council could not operate effectively. The Council would risk failure to comply with statutory requirements which in turn would expose the organisation to further vulnerability from potential legal challenge. Such challenges could lead to serious financial and reputational damage.

It should be noted that the Constitution has not been subject to a complete constitution review, with only the proposed changes and amendments to specific parts subject to legal consideration. Continuing review of the constitution should be maintained to ensure compliance with the Council's duties

Equalities Implications

None identified

Background Information

The Council's constitution was last reviewed and implemented in December 2020. Under Article 16 of the Councils Constitution, the monitoring officer is required to maintain, monitor, and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

To ensure the constitution is fit for purpose, during 2022/2023 there were a number of updates that required amendment within the Constitution. These changes are highlighted in the updated Constitution at **Appendix 1**, with a tabled summary in **Appendix 2**.

The amendments centre on the following areas:

- Change in name / job title
- Enhanced wording (EG: legislation changes / updates)
- Policy endorsements, reflecting constitutional changes (EG: decisions made by the Council or the Executive)
- Overall formatting of document

At the request of the committee on 15th November 2023, a working group was arranged for 6th December 2023 where the changes (**Appendix 2**) were considered, and member input captured.

Report Author

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List of Background Papers

[Constitution & Scheme of Delegation Update 15.11.23](#)

Appendices

Appendix 1 – Working copy of The Constitution

Appendix 2 – Summary of changes table