

REPORT TO:	GENERAL PURPOSES COMMITTEE
DATE:	29th September 2022
SUBJECT:	REVIEW OF CONSTITUTION
LEAD OFFICER:	STEPHEN LAWRENCE-ORUMWENSE, DIRECTOR OF LEGAL SERVICES AND MONITORING OFFICER
Lead Member:	COUNCILLOR AMY FOSTER, CHAIR OF GENERAL PURPOSES COMMITTEE
WARDS:	<i>All</i>
PUBLIC/EXEMPT:	Public

SUMMARY OF REPORT:

This report sets out proposals for the Committee to agree a review of the Constitution and to establish a Constitution Working Group.

RECOMMENDATIONS:

For the reasons set out in this report, the Committee is recommended to;

1. Agree a review of the Constitution covering the issues set out in **Appendix 1** and any other matters the Committee may decide; and
2. Establish a Constitution Working Group to keep the Constitution under review and inform proposals for any changes to the Constitution having regard to the issues set out in paragraphs 2.3 to 2.5.

1. BACKGROUND

- 1.1 The Committee's terms of reference include periodic review of the Council's Constitution. Although approval of changes to the Constitution is reserved to Full Council, the Committee can recommend changes for approval.
- 1.2 As well as recommending changes on its own initiative, the Committee can also consider changes recommended by a Constitution Working Group (CWG).

- 1.3 On 5 July 2021, Full Council established a politically proportionate (CWG) to keep the Constitution under review and inform proposals for any revisions to the Constitution. By necessity, the work of the CWG and the former General Purposes and Audit Committee focused on changes required for the implementation of the mayoral model of governance. The tight timeframe meant that it was not possible (at the same time) to undertake a comprehensive review of the Constitution.

2. PROPOSALS

- 2.1 It is now proposed that the Committee undertake a general review of the Constitution covering the issues set out in **Appendix 1** and any other matters the Committee may wish to add.
- 2.2. The proposed scope of the review refers to the need to make changes generally to, for example, reflect the new political composition of the Council as well as certain specific changes such as ensuring the Council Procedures Rules are fit for purpose or otherwise reflect the current wishes of Members.
- 2.3 It is also proposed that the Committee establish a new Constitution Working Group to act in an informal and advisory capacity (i.e. it would not have any decision-making powers) to inform the Committee's review of the Constitution and make recommendations and/or report its view as appropriate.
- 2.4 The statutory political balance rules would not apply to the CWG in these circumstances. However, the Committee is asked to agree the size, membership and chairing arrangements of the CWG having regard to the political composition of the Council.
- 2.5 It is suggested that the CWG meet on an ad-hoc basis as it may decide with the general authority to discharge its role including:
- (i) consider and make recommendations to the Committee on matters such as the priority order in which issues set in **Appendix 1**, and other matters the Committee may wish to add, are reviewed;
 - (ii) consider and make recommendations on decision making time-frames;
 - (iii) decide the frequency of referrals back to the Committee to consider proposed changes; and
 - (iv) consider and make recommendations on the potential need to consult with others, such as other Committees of the Council, depending on the subject matter of the changes and their practical implications.

3. CONSULTATION

- 3.1. Chair of General Purposes Committee and Chief Whips of the Council's Conservative Group and Labour Group as well as a representative of the Green Group and Cllr Claire Bonham.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

- 4.1. There are no identified financial implications.

5. LEGAL CONSIDERATIONS

- 5.1. The Council is required to maintain an up-to-date constitution under section 9P of the Local Government Act 2000 (LGA).
- 5.2. The Constitution states that changes to the Constitution shall only be approved by Full Council after consideration of written proposals by, among others, the General Purposes Committee (Part 2, Article 15.2(a) refers).
- 5.3. In accordance with section 149 of the Equality Act 2010, the equality impacts of any proposals to amend the Constitution will be considered as and when any substantive proposals are reported to the Committee.
- 5.4. Approved by Looqman Desai, Deputy Monitoring Officer, on behalf of the Director of Legal Services and Monitoring Officer.
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APPENDICES TO THIS REPORT

Appendix 1 – Changes to the Constitution – Scope of Review.

BACKGROUND DOCUMENTS:

None

Appendix 1 – CHANGES TO THE CONSTITUTION – SCOPE OF REVIEW

General changes

- Ensure the constitution is up to date, accurate and complete (e.g. in terms of law, policy and practice, the council's mayor and cabinet executive arrangements, the current composition of the council etc.)
- Implementation of recommendations arising from recent reviews and reports on financial controls and governance issues
- Miscellaneous tidying up changes

Specific changes

Part 1: Summary and Explanation

Part 2: Articles of the Constitution

- **Article 13 Decision-making**
 - o Consider need for further guidance on what constitutes a key decision
- **Article 15 Review and revision of the Constitution**
 - o Re-consider the statutory rules on when changes require the consent of the Executive Mayor

Part 3: Responsibility for Functions

Part 4: Rules for Procedure

- **Part 4.A – Council Procedure Rules**
 - o Review and update to reflect the current composition of the council, resolve ambiguities and make improvements as appropriate
- **Part 4.E – Scrutiny and Overview Procedure Rules**
 - o Clarify the powers of sub-committees and the ability to directly make recommendations to cabinet etc.
- **Part 4.F – Non-Executive Committee Procedure Rules**
 - o Review arrangements for the appointment of chairs and vice-chairs
- **Part 4.H – Financial Regulations**
 - o General review and update in light of recent governance reviews and reports
- **Part 4.I – Tenders and Contracts Regulations 2022**
 - o General review and update in light of recent governance reviews and reports and the Mayor's Scheme of Delegation
- **Part 4.K – Planning and Planning Sub-Committee Procedure**
 - o Review rules on what happens to remaining business after 10.00pm or the extended time of 10.30pm

- All decisions have to be taken on a simple majority vote (para. 6.9 refers to a two-thirds majority vote to defer or adjourn items of business)
- **Part 4.L – Health and Wellbeing Board**
 - Review membership and terms of references in light of recent/impeding legislative changes

Part 5: Protocols and Codes

- **Part 5I – Members Code of Conduct**
 - Agree an updated complaints procedure

Part 6: Schemes

- **Part 6D – Scheme of Co-option**
 - Review generally
 - Specifically, consider references to who is subject to the Members' Code of Conduct and the Ethics Committee Co-opted members