

This report is public	
Updates to the Constitution	
Committee	Council
Date of Committee	26 February 2024
Portfolio Holder presenting the report	Councillor Sandy Dallimore, Portfolio Holder for Corporate Services
Date Portfolio Holder agreed report	16 February 2024
Report of	Monitoring Officer

Purpose of report

The Constitution is the document by which, in accordance with the law, the Council exercises all its powers and duties. It is essential that it is reviewed to ensure it remains fit for purpose. This is to update members with the latest changes following meetings of the Constitution Review Group (CRG).

1. Recommendations

The meeting is recommended:

- 1.1 To note the amendments being made under the existing Monitoring Officer delegation, as detailed in Appendix 5
- 1.2 To approve the amendments to the Constitution referred to in this report and appendices 3, 4 and 6.
- 1.3 To delegate authority to the Monitoring Officer to make the amendments to the Constitution, including a delegation to make textual amendments to address any inconsistencies or correct any cross-referencing errors arising from or as a consequence of the amendments (insofar as the Monitoring Officer does not already have such a delegation).

2. Executive Summary

- 2.1 Amongst the duties of the Monitoring Officer is responsibility for monitoring and reviewing the operation of the Constitution, and for recommending ways in which it can be amended.
- 2.2 Changes to the Constitution may only be made with the approval of the Council and/or by the Monitoring Officer arising from decisions of the Council or the Executive; where legislation requires a change in wording or terminology; or to make minor or consequential amendments.

Implications & Impact Assessments

Implications	Commentary			
Finance	There are no direct financial implications arising from this report. Michael Furness.			
Legal	Every local authority is under a duty to prepare and keep up to date its Constitution under s.9P of the Local Government Act 2000 Shiraz Sheikh.			
Risk Management	The risk of not making changes is that the decision-making of the authority, and its reputation as a business-like and transparent organisation suffers through a lack of challenge and development.			
Impact Assessments	Positive	Neutral	Negative	Commentary
Equality Impact		x		Not applicable
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		x		Not applicable
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		Not applicable
Climate & Environmental Impact		x		Not applicable
ICT & Digital Impact		x		Not applicable
Data Impact		x		Not applicable
Procurement & subsidy		x		Not applicable
Council Priorities	Not applicable			
Human Resources	Not applicable			
Property	Not applicable			
Consultation & Engagement	Constitution Review Group			

Supporting Information

3. Background

- 3.1 A full review of the Constitution started in December 2023. A Constitution Review Group (CRG) was established, comprising the Monitoring Officer and his deputy, officers from Democratic and Elections and five members representing the political groups of the Council. The members of the political groups were selected by the Group Leaders. The terms of reference are attached at **Appendix 1**.
- 3.2 It is agreed that the CRG work will continue beyond the period of this Council. The attached draft programme is included for information at **Appendix 2**.

4. Details

4.1 Overview and Scrutiny Procedure Rules

Appendix 3 is an updated Overview and Scrutiny Procedure Rules document. This takes information from existing Parts 2, 7 and 8 of the Constitution and presents them in one section, alongside a new separate guide (draft attached at **appendix 3a**, document in progress) that will act as a 'Scrutiny help guide' for Councillors but will not be part of the Constitution.

The proposed new layout will help make the Constitution easier to read, with all information relating to Overview and Scrutiny in one section.

4.2 The main changes are as follows:

- Election of the O&S Chairman no longer being held at a meeting immediately at the conclusion of the Annual Council meeting, paragraph 4.1
- A new paragraph (12) clarifying that Executive decisions cannot be implemented until either the call-in process has expired, or in the event of a call-in being received, the detailed review process has concluded.
- An increase in the number of working days for the call-in period, from three to four, paragraph 11.2
- A reduction in the number of non-Executive members needed to request a call-in, from six to five, paragraph 13.1

4.3 Further minor additions and deletions are proposed. Additions are shown in *italic* text, deletions are shown ~~crossed through~~.

4.4 In December 2022, a Motion was submitted to full Council which requested the Monitoring Officer give consideration to specifying in the Constitution that the Overview and Scrutiny Chairman should be from the opposition group. The Motion was debated and agreed.

4.5 The CRG discussed this issue at length, and agreed that the approach to the appointment of the Overview and Scrutiny Chairman should be on the basis of the 'best person for the job', irrespective of individual political group membership. Based on the outcome of the discussion and for the avoidance of doubt, a line has been added to paragraph 4.1 stating that the Chairman can be 'from any political group'.

4.6 Contract Procedure Rules

4.7 Increase the threshold of where approval is required from Procurement Steering Group (PSG) to £200,000 from £50,000. This will roughly align with threshold under the procurement regulations for Services. This will allow the process to be less cumbersome whilst ensuring that the strategy reports are still considered. There are other minor amendments and corrections that are also tracked and included in the attached **Appendix 4**.

4.8 The proposals have been discussed with the PSG and CRG, with both groups supportive of the changes.

4.9 Monitoring Officer Changes (under delegation)

The following changes has been considered and approved at the CRG. It is noted that the Monitoring Office has an existing delegation to 'authorise amendments to the constitution where required by statutory changes or administrative error' (Part 3, para 1.17).

Appendix 5 details four areas that need minor updates, to provide clarity of proceedings.

Part 4, paragraph 4.26 - Voting on appointments

The change removes the first sentence, requiring separate votes to be taken on each appointment, as this is implied in the remaining paragraph.

Part 12, paragraph 12.2 - Leader of the Council

Section S. 91B of the Local Government Act 2000 states that the Leader of the Council remains in post between their retirement as a Councillor and the Annual meeting at which Members will appoint a new Leader. This amendment clarifies this position, removing the previous reference to the Leader automatically leaving office if they are no longer a Councillor.

Part 5 – removal of virtual meetings clause

The legislation allowing formal meetings to be held virtually has now ended, this section is therefore no longer required.

Part 13 – new annexe to the Code of Conduct

The Monitoring Officer has delegated authority to establish a procedure for the local determination of allegations in relation to the Code of Conduct. The procedure is proposed to be added as a new appendix to Part 13 of the Constitution, shown at

Appendix 6. The procedure was presented to Standards Committee on 31 January and was endorsed.

- 4.10 The CRG will continue to meet regularly between February and July 2024, considering further amendments to the Constitution. It is anticipated that the work programme will continue until the Constitution has been updated.

5. Alternative Options and Reasons for Rejection

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to agree the recommendations. This is not recommended as it is important that the Constitution is kept up to date.

6 Conclusion and Reasons for Recommendations

- 6.1 The Constitution is the document by which, in accordance with the law, the Council exercises all its powers and duties. It is essential that it is reviewed to ensure it remains fit for purpose.

Decision Information

Key Decision	Not applicable
Subject to Call in	Not applicable
If not, why not subject to call in	Not applicable
Ward(s) Affected	All

Document Information

Appendices	
Appendix 1	Constitution Review Working Group Terms of Reference
Appendix 2	Constitution Review Working Group Work Programme
Appendix 3	Overview and Scrutiny Committee Procedure Rules
Appendix 3a	In progress Overview and Scrutiny Guide
Appendix 4	Proposed amendments to Contract Procedure Rules (shown with track changes)
Appendix 5	Amendments to Monitoring Officer changes (Under Delegation)

Appendix 6	Annex to Code of Conduct for Procedure for local determination of allegations
Background Papers	None
Reference Papers	None
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