

# **Cherwell District Council**

## **Overview and Scrutiny Committee**

**7 September 2021**

### **Constitution Review 2021**

#### **Report of Director of Law and Governance and Monitoring Officer**

This report is public

#### **Purpose of report**

To consider and endorse the process for the 2021 annual review of the Constitution, including the establishment of an informal cross-party Constitution Review Working Group.

#### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To endorse the process for the 2021 annual review of the Constitution.
- 1.2 To agree the establishment of an informal cross-party Constitution Review working group comprising 5 Conservative members, 2 Labour members, 1 Progressive Oxfordshire member and 1 Independent Group member to work to the operating principles as set out at paragraph 3.7.

#### **2.0 Introduction**

- 2.1 The Constitution 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 law, while others are a matter for the Council to choose. In the case of any conflict between the Constitution and legislation, the legislation will prevail.
- 2.2 It is essential that the Council's Constitution is regularly reviewed to ensure that it remains fit for purpose. A conclusion of the 2020 Constitution review was that an annual review of the Constitution should be undertaken in the autumn each year with the Overview & Scrutiny Committee making recommendations on any proposed changes for consideration by Full Council at its December meeting.

### 3.0 Report Details

- 3.1 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. A resolution of the 2020 Constitution review ([Council Minute 61 refers](#)) was that an annual review of the Constitution be introduced whereby, during the autumn, the Overview and Scrutiny Committee would consider and make recommendations to Full Council for agreement in December, with the potential for the Committee to convene a Constitution Review Working Group to offer advice if appropriate. The annual review would also include notice of any changes required by law
- 3.2 The establishment of an informal cross party working group is considered the best way to achieve collaborative working between the Monitoring Officer and Members in order to ensure different options can be explored and the views of all Members are represented. The working group would report its findings and recommend proposals for change to the Overview and Scrutiny Committee for consideration. The Overview and Scrutiny Committee would agree recommendations for submission to Council, as Council is the body responsible for adopting and changing the Council's Constitution.
- 3.3 To reflect the political balance of the Council, in line with the proportionality calculations, it is proposed that the membership of the working group reflect that of the Accounts, Audit and Risk Committee and Standards Committee, namely 5 Conservative Group members, 2 Labour Group members and 1 Progressive Oxfordshire Group member. However, to ensure that all Groups are represented on the working group, it is proposed that 1 Independent Group member also be appointed.
- 3.4 The working group would therefore comprise 9 members:
- 5 Conservative
  - 2 Labour
  - 1 Progressive Oxfordshire
  - 1 Independent
- 3.5 Group Leaders will be asked to confirm their appointments to the working group. As representatives of their Groups, it will be important that working group members actively engage with councillors in their Group to consider any proposed changes and present the agreed views and comments of their Group back to the Working Group, not just their own perspective.
- 3.6 Working group meetings will be held as virtual meetings and as an informal working group, meetings will be held in private. Meeting dates and times will be agreed with working group members and scheduled as required. At its first meeting the working group will appoint a Chairman and Vice-Chairman
- 3.7 The operating principles for the working group will be:
- a) Work with the Monitoring Officer to review areas in the Constitution to ensure that they are fit for purpose and put forward appropriate changes
  - b) Consider changes proposed by Members and Officers and advice from the Monitoring Officer

- c) Refer proposed changes to the Overview and Scrutiny Committee by way of recommendation for consideration and subsequent recommendation to Council for approval

3.8 Understanding how Members and officers experience the Constitution is crucial. Achieving a fluidity of democratic debate and effective and efficient decision making and good governance is integral to promoting democratic engagement and representation. As part of the review, all Members and senior officers have been asked to provide feedback on the Constitution and potential areas for change to ensure it meets their requirements and roles. These will be considered by the working group as part of the review.

3.9 The next steps in the process are:

- a) The working group is appointed by the Committee with nominations from political Groups
- b) September to November: The working group meets to consider changes proposed by Members and officers and review areas of the Constitution to ensure it is fit for purpose
- c) 19 October: The working group, through its Chairman, to provide a progress update to the Overview and Scrutiny Committee
- d) 30 November: Overview and Scrutiny Committee considers proposals from the working group and makes recommendations to Full Council
- e) 13 December: Full Council considers the recommendations from the Overview and Scrutiny Committee with a view to their adoption

## **4.0 Conclusion and Reasons for Recommendations**

4.1 The Constitution is the legal document that guides the council on its decision making process. It is essential to review the Constitution to ensure it remains fit for purpose. Feedback from Members, senior managers and national best practice will inform the review which will be carried out by a cross-party informal working group with feedback to political Groups, reporting to the Overview and Scrutiny Committee, which will make recommendations to Full Council for agreement.

## **5.0 Consultation**

None for this report, however feedback has been sought from Members and the extended leadership team on areas they consider should be reviewed.

## **6.0 Alternative Options and Reasons for Rejection**

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

Option 1: Not to carry out a review of the Constitution. This is not recommended as Council agreed in December 2020 that an annual review should be undertaken to ensure it remains fit for purpose

Option 2: Align the Constitution to the 'model constitution' circulated nationally. This is not recommended as the national model is several years' old and it is important that this Council's Constitution reflects the current democratic decision-making culture of this Council

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no financial implications arising directly from this report.

Comments checked by:

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### **Legal Implications**

- 7.2 The Council is required to have and to publish a Constitution and to keep it under review (Section 37 Local Government Act 2000)

Comments checked by:

Richard Hawtin, Team Leader – Non-Contentious, 01295 221695,  
[richard.hawtin@cherwell-dc.gov.uk](mailto:richard.hawtin@cherwell-dc.gov.uk)

### **Risk Implications**

- 7.3 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.

Comments checked by:

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### **Equalities and Inclusion Implications**

- 7.4 The Constitution will be reviewed generally to ensure that the format is easily accessible. This is an important step in ensuring that access to the democratic process is equitable as the Constitution sets out the opportunities for engagement with the authority – as members or members of the public – and it is important that it is understandable for those that wish to participate in council business. The report does not otherwise raise any implications for equality and diversity.

Comments checked by:

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## 8.0 Decision Information

### Key Decision

Financial Threshold Met: N/A

Community Impact Threshold Met: N/A

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

All

### Lead Councillor

None

### Document Information

#### Appendix number and title

- None

#### Background papers

None

#### Report Author and contact details

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