

**This report is public**

## **Updates to the Constitution**

<b>Committee</b>	Council
<b>Date of Committee</b>	16 December 2024
<b>Portfolio Holder presenting the report</b>	Councillor Chris Brant, Portfolio Holder for Corporate Services
<b>Date Portfolio Holder agreed report</b>	5 December 2024
<b>Report of</b>	Monitoring Officer, Shiraz Sheikh

### **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 agreed by the Constitution Review Group (CRG) and to propose:

- (a) An additional ordinary meeting of Council in March 2025 and in March going forward.
- (b) That the meeting of Council scheduled to take place on 25 February 2025 (and in February going forward) will deal only with the Council budget and any associated reports and no other business.
- (c) Certain changes to the Constitution regarding the Licensing Committee to comply with the Law.

### **1. Recommendations**

Council resolves:

- 1.1 To agree that the meeting of Council scheduled to take place on 24 February 2025 and in February each municipal year going forward will be regarded as the Budget Council.
- 1.2 To agree that an additional ordinary meeting of Council take place on Monday 17 March 2024 and that a March Council meeting be included in the calendar of meetings going forward.
- 1.3 To approve the Budget Council Procedure Rules detailed in Appendix 1.
- 1.4 To agree the separation of the Licensing Committee to a Licensing Acts Committee and General Licensing Committee with the proposed functions as set out in the report.
- 1.5 To delegate authority to the Monitoring Officer to make the amendments to the Constitution following (i) these changes, and (ii) organisational changes.

Cherwell District Council

## 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.
- 2.3 Specific changes discussed by the CRG comprising all Political Group Leaders in relation to the discussion of the Council's budget setting include:
- (a) re-designating the meeting/one of the meetings in February as "the Budget Council" and the scheduling of an additional meeting of Council during March each year ("the Additional Meeting")
  - (b) the adoption of new procedures for the Council Budget Meeting.
  - (c) replacing the single Licensing Committee with a Licensing Acts Committee and General Licensing Committee with the functions set out in this report.

## Implications & Impact Assessments

Implications	Commentary			
<b>Finance</b>	There are no direct financial implications arising from this report. Any costs will be met from within existing budgets. Michael Furness, Assistant Director Finance (Section 151 Officer), 6 December 2024			
<b>Legal</b>	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, Monitoring Officer, 4 December 2024			
<b>Risk Management</b>	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. Shiraz Sheikh, Monitoring Officer, 4 December 2024			
Impact Assessments	Positive	Neutral	Negative	Commentary
<b>Equality Impact</b>		x		Not applicable
<b>A</b> Are there any aspects of the proposed decision,		x		Not applicable

including how it is delivered or accessed, that could impact on inequality?				
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		x		Not applicable
<b>Climate &amp; Environmental Impact</b>		x		Not applicable
<b>ICT &amp; Digital Impact</b>		x		Not applicable
<b>Data Impact</b>		x		Not applicable
<b>Procurement &amp; subsidy</b>		x		Not applicable
<b>Council Priorities</b>	Not applicable			
<b>Human Resources</b>	Not applicable			
<b>Property</b>	Not applicable			
<b>Consultation &amp; Engagement</b>	Constitution Review Group of all Group Leaders Licensing Committee Chair in respect of the Licensing Committee changes			

## Supporting Information

### 3. Background

- 3.1 A full review of the Constitution started in December 2023. A Constitution Review Group (CRG) was subsequently 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.
- 3.2 The CRG's work has continued in the 2024/2025 municipal year with Group Leaders again appointing members of their political groups to the CRG.

### 4. Details

#### **Budget Council Procedure Rules**

Cherwell District Council

- 4.1 Council meets on the last Monday of February each year. The Budget for the forthcoming financial year and Council Tax setting for the forthcoming financial year are submitted to this meeting for agreement.
- 4.2 The meeting is currently scheduled as an “ordinary meeting of Council” as defined in section 5.1 of the Constitution. This means that, alongside Budget setting and Council Tax setting, other Council business reports, written questions and motions can be submitted to this meeting.
- 4.3 The CRG discussed the principle that the February Council meeting is to focus on the budget items as is the norm in most councils. This will also ensure that there was sufficient time available to debate the proposals.
- 4.4 As this is not currently the case at Cherwell District Council, it requires a change to the Constitution for the current February meeting of full Council to be designated as the Budget Council, to only deal with the budget (and business associated with the budget). An additional meeting should be added to the municipal calendar. This will allow for “ordinary” business, including motions and questions. The additional meeting would take place in March, before the pre-election period, or in any event prior to the Annual Meeting of full Council.
- 4.5 Appendix 1 sets out a procedure for the Budget Meeting of Council. This has been considered and agreed by the CRG which includes all Political Group Leaders.
- 4.6 The effect of this change would be that only budget related items will be discussed at the February Council meeting, and that the meeting will follow the procedure and timeline for amendments set out at Appendix 1.
- 4.7 For the current municipal year, it is proposed that Council meet on Monday 17 March 2025. Going forward, a March meeting will be included on the calendar of meetings submitted each year to Council and this is included on the proposed 2025/2026 Meeting Calendar report later on this agenda.

### **Changes to Licensing Committee**

- 4.8 Cherwell District Council at present has one licensing committee which is responsible for discharging the Council’s functions relating to all licensing and registration functions under the Licensing Act 2003, as well as other functions under the Gambling Act. The Committee also deals with additional licensing functions, outside of the Licensing and Gambling Acts.
- 4.9 It is now proposed to establish two separate committees, a Licensing Acts Committee under Section 7 of the Licensing Act 2003 and a General Licensing Committee under the Local Government Act 1972 (sections 101 and 102) to separate responsibility for discharging statutory and non-statutory functions.
- 4.10 The statutory Licensing Acts Committee is established pursuant to section 7 Licensing Act 2003 and the General Licensing Committee under sections 101 & 102 Local Government Act 1972. Having two distinct committees (each able to establish sub-committees) will reflect the requirements of the legislation, ensuring that all relevant matters are dealt with fairly and transparently. Further, it would protect the Council from risk of challenge that it has acted ultra vires

- 4.11 The functions of the Licensing Acts Committee will be (insofar as not delegated to officers or sub-committee):
- Responsibility for all matters under the Licensing Act 2003 and the Gambling Act 2005. The 2003 Act concerns the regulation of the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment. The 2005 Act covers the control and licensing of gambling (namely gaming, betting and lotteries).
  - Exercising of all the functions of the licensing authority set out in Part B of Schedule 1 to the Functions Regulations to the extent that those functions are under and relate to the Licensing Act 2003, the Gambling Act 2005 and the power to license market and street trading, except for the approval of the Statement of Licensing Policy and Gambling Statement of Principles which are reserved to full Council.
- 4.12 The functions of the General Licensing Committee will be (insofar as not delegated to officers or sub-committee):
- Responsibility for determining issues relating to licensing and registration.
  - Responsibility It is responsible for the licensing policy for hackney carriage and private hire vehicles. It is also responsible for policies on contaminated land, air quality, health and safety, street trading consents, street naming.
  - (It does not deal with licensing under the Licensing Act 2003 or the Gambling Act 2005. The Licensing Acts committee deals with these licences).
- 4.13 Whilst the two Committees must be separately constituted, consistent with other authorities with separate committees for licensing functions, it is proposed that the Licensing Acts Committee and General Licensing Committee have the same membership.
- 4.14 Only the General Licensing Committee, as established under the Local Government Act 1972, needs to be politically balanced, but by having the same members on both Committees, it would allow for both Committees to be politically balanced. It would also allow for Members to receive the same training, and to be able to sit on the same day, albeit it would need to be made clear, using separate agendas and minutes etc., that Members are sitting as “Licensing Acts Committee”, being subject to the rules of the Licensing Act 2003, and then sitting as the “General Licensing Committee”, the other regulatory committee, dealing with public protection licensing matters, following the rules and procedures of the Council’s Constitution.
- 4.15 Two Licensing Committee meeting dates are currently scheduled each municipal year. The Committee only meets if there is business. Going forward, two meeting dates will continue to be scheduled each municipal year to enable either or both Committees (on after the other) to meet if either or both has business to transact.
- 4.16 The current Licensing Sub Committee would be renamed Licensing Acts Sub Committee as it considers matters under the Licensing Act 2003 and Gambling Act 2005 as set out in its terms of reference.

4.17 The CRG will continue to meet to consider further amendments to the Constitution with reports submitted to Council as required.

## 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

<b>Key Decision</b>	Not applicable as item is going to full Council.
<b>Subject to Call in</b>	Not applicable
<b>If not, why not subject to call in</b>	Not applicable
<b>Ward(s) Affected</b>	All

### Document Information

<b>Appendices</b>	
<b>Appendix 1</b>	Budget Council Procedure
<b>Background Papers</b>	None
<b>Reference Papers</b>	None
<b>Report Author</b>	Natasha Clark, Governance and Elections Manager
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<b>Corporate Director Approval (unless Corporate Director or Statutory Officer report)</b>	Report of Statutory Officer, Monitoring Officer