



Report of:	Meeting	Date
Councillor Michael Vincent, Leader of the Council and Joanne Billington, Assistant Director of Governance and Legal (Monitoring Officer)	Council	12 September 2024

Constitution amendments

1. Purpose of report

- 1.1** The purpose of the Constitution is to set out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficiency, accountability and transparency.
- 1.2** The purpose of the amendments proposed in this report is to ensure that the Constitution remains up to date and is fit for purpose.

2. Council priorities

- 2.1** A well run, forward thinking council that puts customers first.

3. Recommendations

- 3.1** That Part 2.04 Article 4 be amended to reflect changes in the policy framework as set out in Appendix 1.
- 3.2** That Part 2.09 Article 9 be amended to confirm that the Licensing Committee is constituted under the relevant legislation as set out in Appendix 2.
- 3.3** That Part 4.01 be amended to include a number of changes to Procedure Rule 13 as set out in Appendix 3.
- 3.4** That Part 4.05 be amended to include a number of changes to Procedure Rule 16 (Call-in of Executive Decisions) as set out in Appendix 4.
- 3.5** That Part 5.05 amended to include a number of changes to the guidance on gifts and hospitality as set out in Appendix 5.

3.6 That Parts 7.01 and 7.02 be amended to reflect changes in the Council's Senior Management Structure and to reflect the current Executive and Non-Executive officer delegations as set out in Appendix 6.

4. Background

4.1 The Local Government Act 2000 requires all local councils to have a written Constitution. It remains a legal requirement for the Council to adopt a Constitution and keep it up to date. Under Section 9P of the Local Government Act 2000, the Constitution must contain:

- a) a copy of the authority's standing orders for the time being,
- b) a copy of the authority's code of conduct (if any) for the time being under section 28 of the Localism Act 2011,
- c) such information as the Secretary of State may direct, and
- d) such other information (if any) as the authority considers appropriate.

4.2 Since the introduction of the Constitution, the Council has amended it to ensure that it reflects new legislation, changes to functions, structures, roles, responsibilities or procedures.

5. Key issues and proposals

5.1 Changes are proposed to Part 2.04 Article 4 – The Council Meeting at Paragraph 4.01 (a); Policy framework as set out in Appendix 1.

5.1.1 The Cabinet, in consultation with the Chief Executive proposes an update to the Council's policy framework plans and strategies. The updated version is consistent with the key strategies outlined in the Council's Performance Cycle. The updated policy framework contains the following plans and strategies:

- Council Plan;
- Medium Term Financial Plan;
- Asset Management Strategy;
- Transformation Strategy;
- Economic Development and Tourism Strategy;
- Climate Change Strategy;
- Local Plan and associated documents;
- Capital Strategy;
- Pay Policy;
- Licensing Authority Policy Statement;
- Any other plan or strategy (whether statutory or non statutory) in respect of which the Council determines that the decision on its adoption or approval should be taken by it rather than the Cabinet.

5.1.2 The Crime and Disorder Reduction Strategy has been removed because it no longer applies.

- 5.2** A change is proposed to Part 2.09 Article 9 - Licensing Committee Paragraph 9.03; Functions as set out in Appendix 2.
- 5.2.1** At the Annual Meeting held on 16 May 2024, the Council established its committees for 2024/25. The report clarified that the Licensing Committee is established under Section 6 of the Licensing Act 2003, Section 154 Gambling Act 2005 in respect of Licensing Act and Gambling Act functions and Section 101 of the Local Government Act 1972 in respect of other licensing functions. It is proposed that the Constitution be amended to reflect this.
- 5.3** Changes are proposed to Part 4.01 - Council Procedure Rules Paragraph 13; Reports from Chairmen of the Overview and Scrutiny, Audit and Standards, Licensing, Planning Committees and Lead Members as set out in Appendix 3.
- 5.3.1** To include the requirement for the Chairman of the Councillor Development Group as well as the Lead Members to submit a report to a meeting of the Full Council at least once in each municipal year.
- 5.4** Changes are proposed to Part 4.05 - Overview and Scrutiny Procedure Rules paragraph 16; Call-In of Executive Decisions as set out Appendix 4.
- 5.4.1** The Overview and Scrutiny Committee recently reviewed the Council's procedures for when an executive decision is called-in. The committee agreed to suggest an amendment to part 16.3 of the Overview and Scrutiny Committee Procedure Rules (relating to call-in procedures) to allow for the nomination of a substitute spokesperson in the event that the nominated spokesperson is unable to attend the call-in meeting. They also agreed to suggest an additional amendment to part 16.4 of the Overview and Scrutiny Committee Procedure Rules (relating to call-in procedures) to make it clearer that the call-in must be held, unless there is good reason not to, within ten working days of being submitted, this is in line with most local authorities.
- 5.5** Changes are proposed to Part 5.05 - Gifts and Hospitality: Guidance for Councillors and Officers as set out in Appendix 5.
- 5.5.1** To make it clearer that significant gifts and hospitality which have been refused by the councillor must still be registered with the Monitoring Officer. This mirrors the model Local Government Association Code and is considered as best practice in line with the Bribery Act, Section 7 of which requires bodies to take all reasonable steps to prevent bribery. Although Section 7 applies to local authorities in limited circumstances, however it is important for the Council to demonstrate that we have adequate anti-bribery

procedures in places and therefore it is good practice to adopt this approach.

5.6 Changes are proposed to Part 7.01 – Management Structure and Part 7.02 – Scheme of Delegation as out in Appendix 6.

5.6.1 The management structure at Part 7.01 has been amended to reflect the recent restructure of the council's Senior Leadership Team in April 2024 and any current vacancies.

5.6.2 The following changes to Part 7.02 Scheme of Delegation have been made:

- Throughout the document a number of changes have been made to reflect the recent re-structure of the Senior Leadership Team in April 2024. In particular, 'Corporate Directors' have been changed to 'Directors' and 'Heads of Service' have been changed to 'Assistant Directors';
- Virement limits have been corrected from £20,000 to £25,000 to reflect the limits previously agreed by the Audit and Standards Committee in the Financial Regulations and Financial Procedure Rules;
- The Executive function delegated to the Director of Finance and Governance (S151 Officer) in relation to borrowing, financing and investments has been amended to reflect that the delegation also includes the power to prepay pension contributions, subject to a clear economic benefit to the Council as previously approved by Cabinet;
- Various amendments throughout the document have been made to reflect the amalgamation of the Audit and the Standards Committee in May 2023;
- Executive and Non-Executive Functions relating to building control have been moved from the previously named Head of Assets to the Assistant Director of Planning and Building Control;
- Amendments have been made to the Non-Executive functions delegated to the Assistant Director of Governance and Legal to ensure that the relevant legislation relating to the Licensing Committee is included;
- Amendments have been made to the Non-Executive functions delegated to the Assistant Director of Planning and Building Control to reflect current practice in relation to the determination of all applications; and

- The Executive functions delegated to the Assistant Director of Engineering have been amended to reflect the requirement to adhere to the Coastal Protection Act 1949 were appropriate.

6. Alternative options considered and rejected

- 6.1 The Constitution could remain unamended; however, this would mean it is out of date and not fit for purpose.

Financial, Legal/MO, and Climate Change implications	
Finance	None arising directly from this report.
Legal/MO	The Council is required to have an up to date Constitution, including Rules of Procedure and Scheme of Delegations to ensure that all decisions are taken lawfully.
Climate Change	None directly from this report.

Other risks/implications: checklist

If there are significant implications arising from this report on any issues marked with a ✓ below, the report author will have consulted with the appropriate specialist officers on those implications and addressed them in the body of the report. There are no significant implications arising directly from this report, for those issues marked with a x.

risks/implications	✓ / x
community safety	x
equality and diversity	x
health and safety	x

risks/implications	✓ / x
asset management	x
ICT	x
data protection	x

Processing Personal Data

In addition to considering data protection along with the other risks/ implications, the report author will need to decide if a 'privacy impact assessment (PIA)' is also required. If the decision(s) recommended in this report will result in the collection and processing of personal data for the first time (i.e. purchase of a new system, a new working arrangement with a third party) a PIA will need to have been completed and signed off by Data Protection Officer before the decision is taken in compliance with the Data Protection Act 2018.

report author	telephone no.	email	date
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List of background papers:		
name of document	date	where available for inspection
None		

List of appendices

Appendix 1 – Part 2.04 Article 4 The Council Meeting

Appendix 2 - Part 2.09 Article 9 Licensing Committee

Appendix 3 - Part 4.01 Council Procedure Rules

Appendix 4 - Part 4.05 Overview and Scrutiny Procedure Rules

Appendix 5 – Part 5.05 Gifts and Hospitality

Appendix 6 - Parts 7.01 and 7.02 Management Structure and Scheme of Delegations