

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF GOVERNANCE	COUNCIL	6 FEBRUARY 2023	9
CONSTITUTION			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

At its meeting on January 19 2023, the Audit and Standards Committee considered a report from the Head of Governance on the recommendations of the Constitution Working Group on proposed changes to the Constitution from May 2023.

RECOMMENDATION

1. Recommend that the council adopts the documents referred to in paragraph 4 of the report (together with any updated members' allowances scheme) as the council's constitution with effect from 9 May 2023

SUMMARY OF PREVIOUS DECISIONS

[Audit and Standards Committee 17 March 2022](#)

Established a cross-party Working Group comprising Councillors Buckley, Small, Oades¹, Lee, Gaunt and Nash, to undertake a time-bound piece of work to review the constitution, proposing any changes to the Committee for its agreement, prior to the council being invited to endorse any changes prior to the May 2023 local election.

[Audit and Standards Committee 19 January 2023](#)

Following a show of hands it was RESOLVED to recommend that the council adopts the documents referred to in paragraph 4 of the report (together with any updated members' allowances scheme), including the addition to the proposed changes to the order of business at council, as the council's constitution with effect from 9 May 2023.

CORPORATE PRIORITIES

Economy – To create a vibrant and healthy economy	✓
Environment – To deliver services customers expect	✓
Efficiency – By spending money in the most efficient way	✓
Tourism – To create a great place to live and visit	✓

¹ Councillor Peter Collins replaced Councillor Oades as a member of the working group on becoming leader of the Independent group.

REPORT

CONTEXT

1. Following the review of the council's electoral arrangements by the Local Government Boundary Commission for England, the number of councillors making up the council will reduce from 51 to 37. This will have effect from when councillors elected at the elections on May 4 take office.
2. Members have expressed an intention to move to a different decision-making structure from the municipal year 2023-4, while remaining within the parameters of a committee governance model. The new structure would replace the four programme committees with one Executive Committee, which would also have responsibility for planning policy. Two scrutiny committees (one primarily externally focussed and one primarily internally focussed) would be established. Finally, ethical standards would fall under the remit of a standalone Standards Committee, instead of being the responsibility of the Audit and Standards Committee.
3. The constitution needs to be amended to take account of the changes outlined above. The committee established a working group to consider and make recommendations on the changes. The draft revised constitution which should be read with this report incorporates the amendments recommended by the working group, together with minor consequential and drafting alterations.

THE DRAFT REVISED CONSTITUTION

4. The draft revised constitution, which the committee is asked to recommend for adoption by the council, can be accessed through the following link: [\[Council 6 Feb Meeting\]](#). Recommended amendments are generally shown as tracked changes.
5. The draft revision does not include the members' allowances scheme, as the scheme to apply for 2023-4 will be the subject of a separate report and recommendation to the council.
6. Councillors will want to peruse the documents that comprise the draft revised constitution themselves. However, the paragraphs below provide a guide to and summary of the amendments that are recommended.

AMENDMENTS THAT RESULT FROM THE CHANGES TO COUNCIL SIZE AND COMMITTEE STRUCTURES

7. In Part 2: Articles of the Constitution:

Article 2.01 now refers to 37 councillors instead of 51.

In article 2.03, councillors can require local crime and disorder matters to be placed on the agenda of the scrutiny committee, instead of the EHH Committee (n.b. reference now updated to refer specifically to the Community Focus Scrutiny Committee).

Article 8 is rewritten. It now relates to the new Audit and Governance Committee, and incorporates the full "mission statement" for the committee, which was previously set out in part 3 of the constitution "responsibility for functions". The text was incongruous there, because that section is intended to set out delegated responsibilities for decision-making. Placing the "mission statement" in the articles of the constitution is both more logical and gives the material more prominence. The "mission statement" itself has been updated in line with recognized best practice and advice from internal audit.

8. In Part 3: Responsibility for functions

Paragraph three of the introductory material now refers to the new committee structure.

In section 2, the functions of the Planning Committee that relate to planning policy are removed (and fall instead within the remit of the Executive Committee). The section relating to the Audit and Standards Committee is removed and split between Audit and Governance Committee (placed in article 8 in part 2) and Standards Committee (below).

Section 3 now relates to the Executive Committee instead of the programme committees. It includes terms of reference discussed at the working group the effect of which is that everything that does not fall somewhere else falls within the remit of the Executive Committee, and introduces lead members.

Section 4 describes the functions and role of the two scrutiny committees and is new.

Section 6 describes the functions and role of the standalone Standards Committee and is extracted from the existing material for the Audit and Standards Committee.

The referral and recovery rules now in section 7 have been revised as follows, as required by the legislation governing scrutiny committees:

- (i) to allow a recovery request to be made by a scrutiny committee; and
 - (ii) to allow a recovery request to ask for the decision to be either reconsidered by the committee who made it (which is presently not possible), or to be referred to the council
9. In part 6: Financial Procedure Rules, budgetary approvals presently within the power of the Finance and Democracy Committee would be given instead by the Executive Committee. Similarly consultations presently required to be with the chairman of the Finance and Democracy Committee chairman would now be with chairman of the Executive Committee . Fees and charges would be recommended by the Executive Committee instead of programme committees.

OTHER SUBSTANTIVE CHANGES

10. In part 2: Articles of the Constitution:

Article 15 is amended to:

- (i) provide a filter to exclude “questions” from members of the public which are not questions;
- (ii) have the question read out by an officer rather than the member of the public who submitted it; and
- (iii) remove the right to a supplementary question.

(This is not shown as a tracked change in the linked document).

11. In part 5: Officer Employment Procedure Rules, amendments are made to avoid potential confusion caused by the statutory definition of “chief officer” only applying to the heads of service who report to the Chief Executive and not those who report to the Deputy Chief Executive. The change is to use the term “Designated Officer” instead and apply it to those who would sensibly be regarded as chief officers, that is the Deputy Chief Executive and heads of service. The Chief Officers Employment Committee can appoint to all those positions.
12. Part 5c: Protocol on Member/Officer Relations is replaced in its entirety by a new protocol.
13. In Part 5f: Protocol for Members on Outside Bodies, amendments are made so that reporting forms completed by members representing the council on outside bodies would be considered by scrutiny committees instead of being sent to all councillors. Members failing to complete a form would be notified to scrutiny chairmen instead of to programme committee chairmen.

MINOR, CONSEQUENTIAL AND FORMATTING AMENDMENTS

14. A number of minor amendments have also been made to correct formatting and numbering errors, make amendments consequential on the structural changes and on the changes made to the management structure in 2021 and to standardise pronouns to “they/their”, in line with modern drafting practice.
15. In Part 4: Ordinary Meetings it was proposed to change the order of business at ordinary meetings of the Council by receiving questions from members of the public before any questions from members of the council.

IMPLICATIONS	
Finance	No implications
Legal	The council is required to maintain a constitution by section 9P of the Local Government Act 2000
Community Safety	No direct implications
Human Rights and Equalities	No direct implications
Sustainability and Environmental Impact	No direct implications
Health & Safety and Risk Management	No direct implications

LEAD AUTHOR	CONTACT DETAILS	DATE
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BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
None		

Linked documents

The amended part of the constitution, with tracked changes, can be viewed on CMIS [here](#)