

Governance Committee

25 June 2018

Part I

Review of the Constitution

Report by Director of Law and Assurance

Summary

A technical review has been undertaken of the County Council's Constitution, with an aim of making it a more accessible document, removing duplication and simplifying some of the more technical language.

Recommendations

- (1) That the revised text of the Constitution be recommended for submission to the County Council on 20 July 2018 for approval; and
- (2) That the proposed changes to governance arrangements set out in paragraph 2.2 be recommended for submission to the County Council on 20 July 2018 for approval.

Background

1. The Constitution Since 2000

- 1.1 As a requirement of the Local Government Act 2000, West Sussex County Council adopted its Constitution in 2000. This built on the model Constitution available from the Government, but tailored for the County Council.
- 1.2 The Constitution sets out how the County Council discharges its business and responsibilities. It sets out who undertakes what roles and what delegations are made from the Council to committees and individual members and also to officers. It contains rules and advice to ensure that decision-making is sound and lawful, financially sound and meeting all other requirements. It sets out codes of expected conduct and a members' allowances scheme.
- 1.3 The Constitution has always been a dynamic document, subject to regular review and amendment in response to national or local change or need.
- 1.4 Following the elections in 2017 the Chairman and Group Leaders agreed that a full technical review of the Constitution should be undertaken, with the aim of making it a more streamlined, clear resource. This aimed to reduce duplication and review the content for clarity, need and value.

2. Proposal

- 2.1 A revised Constitution has been prepared to fulfil the aims of the review. The document has been reduced to six sections, including a clearer introduction

in Part 1. The proposed changes for consideration by the Committee are attached as Appendices 1 to 4. A summary of the overall changes is included at Appendix 5. The proposed new Constitution comprises the following parts:

Part 1 is a brief summary of what is contained in the Constitution.

Part 2 is a brief introduction to the main aspects of political governance at the Council and how the Council works.

Part 3, the Responsibility for Functions, explains who within the Council has powers to exercise various powers and duties. This covers the member-level areas of decision-making and sets out an officer scheme of delegation. The terms of reference (including membership and remit) for each member-level Committee, Panel and Joint Committee are found within this section. There is an index at the start of the section.

Part 4, Standing Orders and other procedures, set out the rules to be followed by the Council to ensure that its decisions and actions are legal, financially sound and carried out in accordance with policy frameworks. Standing Orders sets out rules in ten sections:

1. Introduction	6. County Local Committees
2. Council	7. Non-Executive Committees
3. Decision-making and Committees general	8. Scrutiny
4. Access to meetings and documents	9. Appointment of Officers and Disciplinary Action
5. Cabinet and Executive decision-making	10. Delegations to Officers

Part 5, the Code of Conduct, sets out the standards of conduct that are expected of members and officers in their Council work. There is an index at the start of this section.

Part 6, the Members' Allowances Scheme, sets out the scheme of payment to elected members.

2.2 An aim of the review was to avoid making any material changes to existing political governance arrangements or delegations. This has been done, but several matters of substance are raised below. It is recommended to make the changes below as part of the review:

- (a) **Start of Life Partnership Board** – This is to be abolished, so references will be removed. This is with the agreement of the Cabinet Member for Children and Young People. The activities of the Start of Life Partnership Board will be subsumed within the Health and Wellbeing Board, following discussions with the Cabinet Member for Adults and Health, who chairs the Health and Wellbeing Board.
- (b) **Fire Pension Advisory Board** – This is not currently referenced in the Constitution, unlike the Local Government Pension Advisory Board. It is proposed to correct this omission by including terms of reference for the Board in Part 3.

- (c) **Corporate Parenting Panel** – To allocate non-voting co-opted membership to the Designated Nurse (NHS). This is at the request of the Cabinet Member for Children and Young People, and with the agreement of the Chairman of the Corporate Parenting Panel.
- (d) **Election of Chairman** – To change the wording of Standing Orders to reflect current practice that a secret ballot *may* be held rather than *will* be held.
- (e) **Vice-Chairman of Governance Committee** – To formalise the long-standing convention that this role will be an ex officio role for the County Vice-Chairman.

2.3 The Standards Committee has reviewed the proposed changes to Part 5 of the Constitution, the Codes of Conduct, in accordance with the rules of the Constitution. It agreed to support the proposed changes for submission to the County Council in July 2018.

3. Resources

3.1 There are no resource implications.

Factors taken into account

4. Consultation

- 4.1 The Chairman and Group Leaders agreed the scope for the review and have been kept informed as to its progress. The Group Leaders nominated Mr Burrett and Mr Mitchell to review the proposed changes in more detail, to give assurance that the review had made the Constitution clearer and that nothing of substance had changed or been removed.
- 4.2 Start of Life Partnership Board members have been consulted on proposals to abolish this Board and for its activities to be subsumed within the Health and Wellbeing Board. No concerns regarding this approach have been raised.

5. Risk Management Implications

- 5.1 A complex constitution containing duplication and that is difficult to navigate creates risks of inaccurate delegations or decision-making. The proposed changes to the Constitution should ensure that the Constitution is much clearer, which significantly reduces these risks.

6. Other Options Considered

- 6.1 Keeping more guidance within the Constitution would have been possible, but it was considered better to minimise guidance within the Constitution to improve its focus and to ensure maximum flexibility in keeping guidance relevant.

7. Equality Duty

- 7.1 Reference to the need to have regard to equalities implications in all decision-making is retained in the Constitution.

8. Social Value

8.1 Reference to the need to have regard to Social Value Act implications in all decision-making is retained in the Constitution.

9. Crime and Disorder Act Implications

9.1 Reference to the need to have regard to Crime and Disorder Act implications in all decision-making is retained in the Constitution.

10. Human Rights Implications

10.1 Reference to the need to have regard to Human Rights Act implications in all decision-making is retained in the Constitution.

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Appendices

Appendix 1 – Part 1: Summary and Explanation

Appendix 2 – Part 2: Description of the Constitution

Appendix 3 – Part 3: Responsibility for Functions (changes only)

Appendix 4 – Part 4, Section 1: Standing Orders

Appendix 5 – Log of proposed changes

Background Papers

None