
Governance Committee: Review of the Constitution

Background: The Constitution Since 2000

- 1** As a requirement of the Local Government Act 2000, the County Council adopted its Constitution in 2000. This built on the model Constitution available from the Government, but tailored for the County Council.
- 2** The Constitution sets out how the County Council discharges its business and responsibilities, who undertakes what roles and what delegations are made from the Council to committees, individual members and to officers. It contains rules and advice to ensure that decision-making is sound and lawful. It sets out codes of expected conduct and the members' allowances scheme.
- 3** The Constitution has always been a dynamic document, subject to regular review and amendment in response to national or local change or need.
- 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. The proposed changes to the Constitution should ensure that the Constitution is much clearer.

Proposal

- 5** 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. It was considered better to minimise guidance within the Constitution to improve its focus and to ensure maximum flexibility in keeping guidance relevant.
- 6** The County Council agreed at its meeting on 20 April 2018 that, as the material contained in the review of the Constitution is substantial and the changes technical, Standing Order 6(2) should be waived for these items and therefore the draft revised Constitution sections have been issued electronically and are available via the website. Hard copies are available on request. This report sets out the main changes being proposed and a summary of the overall changes **is included at Appendix 1**.
- 7** The proposed new Constitution comprises the following parts:

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

Part 2 is an 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.

- 8** 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 that the changes set out below are made as part of the review:
- (a) **County Local Committees** – to add the make-up of the committees to their terms of reference in Part 3.
 - (b) **Member Development Group** – change to the constitution of the MDG following the recent removal of 'Member Support' from the Safer, Stronger Communities portfolio, so that the Cabinet Member appointed to the MDG can be any chosen by the Leader.
 - (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) **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.

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- (e) **Pensions Panel** – to update the terms of reference to reflect the addition of the ACCESS Joint Committee in the governance structure of the Pension Fund.
 - (f) **Pension Advisory Board** – to increase membership from five to seven, comprising of three employer representatives, three member representatives and one independent Chairman. Increase the number of meetings a year from three to four.
 - (g) **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.
 - (h) **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.
 - (i) **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.
 - (j) **Select Committee portfolio change** – to move 'Coroner and Mortuaries' from the Environment, Communities and Fire Select Committee to the Health and Adult Social Care Select Committee, to bring them into line with a recent Cabinet portfolio change.
 - (k) **Financial Regulations and Procedures** – in line with good practice the Financial Regulations and Financial Procedures are currently being reviewed by the Regulation, Audit and Accounts Committee. The Financial Procedures set out the controls in place for the key areas covered in the Financial Regulations, along with the responsibilities of the Directors in respect of each the key areas. It is proposed that the Treasury Management Policy Statement, which is currently part of the Financial Regulations, and the Financial Procedures, should be held outside of the Constitution.

9 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 and these are included elsewhere on the agenda.

Consultation

10 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.

11 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.

Recommended

- (1) That the proposed changes to governance arrangements set out in paragraph 8 be approved;
- (2) That the revised the Constitution be approved; and
- (3) The Director of Law and Assurance be authorised to make any minor consequential changes to the Constitution arising from the review.

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Background Papers

None