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| <b>Report of:</b>    | Director of Legal and Governance Services and Monitoring Officer - Charlotte Benjamin |
| <b>Submitted to:</b> | Council – 26 January 2022   |
| <b>Subject</b>       | Update - Council Constitution   |

**Summary**

| <b>Proposed decision(s)</b>   |
|---|
| <p>That Council approves the following:</p> <ul style="list-style-type: none"> <li>(a) The proposed changes to the Constitution as detailed in the report and notes that the Monitoring Officer will, under delegated powers, amend the Constitution accordingly.</li> <li>(b) The Social Media Framework: Policy and Guidelines for Elected Members for inclusion within the Members Handbook.</li> <li>(c) That the Monitoring Officer, under delegated powers be authorised to amend the Constitution and make any necessary minor textual changes or further adjustments to comply with any subsequent legislative changes, changes to reflect decisions taken by Council and/or Executive and changes which are of typographical/drafting error nature.</li> </ul> |

| <b>Report for:</b> | <b>Key decision:</b> | <b>Confidential:</b> | <b>Can be called-in:</b> |
|--------------------|----------------------|----------------------|--------------------------|
| Decision           | No                   | No                   | No                       |

| <b>Contribution to delivery of the 2020-23 Strategic Plan</b> |                |   |
|---|----------------|---|
| <b>People</b>   | <b>Place</b>   | <b>Business</b>   |
| Not applicable  | Not applicable | The Constitution sets out how the Council operates, how decisions are made and the procedures, which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for |

|  |  |                        |
|--|--|------------------------|
|  |  | the Council to choose. |
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|-------------------------|
| <b>Ward(s) affected</b> |
| Not applicable          |

**What is the purpose of this report?**

1. The Council’s Constitution is subject to continual review together with any associated documents e.g. Scheme of Delegation, Procedure Rules and protocols to ensure that decisions taken by the Council are lawful and reflect changes in legislation and Council priorities. This report details proposed amendments to the Constitution.

**Why does this report require a Member decision?**

2. The Constitution is a live document, which from time to time requires adjustment to reflect how the Council operates. Occasionally amendments are needed to reflect changes in policy and legislation whilst others deal with inconsistencies and presentational issues that have no effect on the agreed procedural rules. Other minor amendments are required to deal with the results of new legislation and do not require a change in Council processes.
3. Article 4 – The Full Council, paragraph 4.2 (a) of the Constitution specifies that only Council will have responsibility for adopting, amending and changing the Constitution, apart from the specific delegations to the Monitoring Officer to make any necessary minor textual changes or further adjustments to comply with any subsequent legislative changes, changes to reflect decisions taken by Council and/or Executive and changes which are of typographical/drafting error nature.

**Background**

4. A phased review of the Constitution is underway to ensure that the Constitution is fully up to date. Some topics were prioritised last year and since then amendments have been made on various topics such as motions, votes of no confidence, voting on appointments, and the Member Code of Conduct has now been refreshed following approval by Council
5. This report seeks the approval of the proposed changes to the Constitution as detailed below and notes that the Monitoring Officer, under delegated powers has authorisation to amend the Constitution in the circumstances outlined in paragraph 3 above.
6. The changes to the Constitution generally fall within three broad areas, which can be described as follows:-
  - a. Alterations made as a result of decisions of either the Council or the Executive.
  - b. Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.

- c. Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors

7. The following amendments to the Contract Procedure Rules, Financial Thresholds are proposed under paragraph (b) above.

|   | WORKS                   |   | SUPPLY OF GOODS, MATERIALS & SERVICES                           |   | LIGHT TOUCH  |  | CONSULTANCY   |   |
|---|-------------------------|---|---|---|--|--|---|---|
|   | Current                 | 1 <sup>st</sup> Jan 22  | Current   | 1 <sup>st</sup> Jan 22  | Current  | 1 <sup>st</sup> Jan 22                                       | Current   | 1 <sup>st</sup> Jan 22  |
| Direct Award                              | Up to £10,000           |   | Up to £10,000   |   | Up to £10,000  |  | Up to £10,000   |   |
| Quotation                                 | £10,001 - £1,000,000    |   | £10,001 - £189,330<br>(inc. of VAT)<br>£177,897.50 (net of VAT) | £10,001 - £213,477<br>(inc. of VAT)<br>£177,897.50 (net of VAT) | £10,001 - £633,540<br>(inc. of VAT)<br>£552,950 (net of VAT) | £10,001 - £633,540<br>(inc. of VAT)<br>£552,950 (net of VAT) | £10,001 - £189,330<br>(inc. of VAT)<br>£177,897.50 (net of VAT) | £10,001 - £213,477<br>(inc. of VAT)<br>£177,897.50 (net of VAT) |
| Tender                                    | £1,000,001 - £4,733,252 | £1,000,001 - £5,336,937 (inc. of VAT)<br>£4,447,447.50 (net of VAT) | n/a   |   | n/a  |  | n/a   |   |
| Tender (Public Contract Regulations 2015) | £4,733,252 and above    | £5,336,937 (inc. of VAT)<br>£4,447,447.50 (net of VAT) and above    | £189,330 and above  | £213,477 (inc. of VAT)<br>£177,897.50 (net of VAT)              | £633,540 and above   | £633,540 (inc. of VAT)<br>£552,950 (net of VAT)              | £189,330 and above  | £213,477 (inc. of VAT)<br>£177,897.50 (net of VAT)              |

8. The following amendments are proposed under paragraph (c)

### 1. Council Procedure Rules

Change of the word **must** to **should** in paragraph 76 of Council Procedure Rules

## **Amendment to Ordinary Motion**

An amendment to an ordinary motion **should** be submitted, in writing, 2 clear working days before the meeting and must be relevant to the motion and will either be:

- (a) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (b) to leave out words;
- (c) to leave out words and insert or add others; or
- (d) to insert or add words, as long as the effect of (b) to (d) is not to negate the motion, or introduce a new proposal.

## **2. Officer Employment Procedure Rules**

**Change of wording for the Appointment of Head of Paid Service to provide for the appointment to be made by Full Council or by recommendation from the Chief Officer Appointments Committee.**

Page 8 – Paragraph 3 Appointment of Head of Paid Service (a) The appointment of the Head of Paid Service will be made directly by Full Council, or by an Appointment Committee. The Appointment Committee will be made up of 7 members nominated annually by the Council and will include the Elected Mayor, Deputy Mayor and the relevant portfolio holder.

The appointment of the Head of Paid Service will be approved by the full Council following the recommendations of the Appointment Committee. (b) The full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been received from any member of the Executive, within three days of notification of the recommended candidate.

## **3. Councillor Calls for Action**

Insert Procedure and Guidance for Councillor Calls for Action into the Constitution. (Appendix 1)

## **4. Political Balance Procedure Rules**

Insert Political Balance Procedure Rules. (Appendix 2)

## **STANDARDS COMMITTEE TERMS OF REFERENCE**

9. At the meeting of the Standards Committee held on 19 July 2021, it was suggested that the Annual Corporate Complaints Report should be submitted to the Corporate Affairs and Audit Committee rather than the Standards Committee. This would enable separation of powers and responsibilities of the two Committees and the type of complaints and would align with the Council's Strategic Priorities. In accordance with the above it is proposed that the reference to the Standards Committee in Article 9 of the Constitution, be amended as follows:

Article 9 – Standards Committee

### **9.1 Standards Committee**

The Council will establish a Standards Committee, appointed under the Localism Act 2011.

## 9.2 **Composition**

### (a) **Membership**

The Standards Committee will be composed of at least:

- Nine councillors (politically balanced);
- two parish council members

### (b) **Parish Members**

At least one parish member must be present when matters relating to those parish councils or their members are being considered;

### (c) **Chairing the Committee**

The Chair must be elected from the Standards Committee.

The Standards Committee may exercise the following functions:

- overview of the whistle blowing policy;
- to ensure individual oversight of key issues that relate to ethics in Local Government.

## **Terms of reference**

1. To make reports or recommendations to the Council in relation to:

- the approval by the Council of local codes of conduct for Members and officers, codes of practice, standing orders and protocols, taking account of national models and guidance or case tribunals.
- the implementation of local codes of conduct etc., and the dissemination throughout the Authority of information and guidance on their operation.
- consideration of any reports relating to the conduct of Members or officers which may be referred to it by the Council's Chair, Monitoring Officer or by the Chief Finance Officer under section 114 of the Local Government Finance Act 1988 in consultation with the Monitoring Officer, including issues relating to Members' and officers' interests and the maintenance and management of any relevant registers of interests.
- consideration of relevant reports referred by the Monitoring Officer and Chief Finance Officer and make recommendations thereon to the Council as necessary.

2. Grant dispensations to Councillors, Co-opted Members and Parish Council Members from the requirements relating to declarations of interest as set out in Section 32 of the Localism Act 2011.
3. The determination, following an investigation, of allegations of breaches of Members' Codes of Conduct within such statutory provisions or guidance as may exist. At
4. Discharge of all of the above functions required by the Localism Act 2011 in relation to Parish Councils.

### **Social Media Framework: Policy and Guidelines for Elected Members**

10. At the meeting of the Constitution and Members' Development Committee held on 10 December 2021, Members considered a Social Media Framework: Policy and Guidelines for Elected Members (Appendix 3). If approved, it was proposed that the document be included in the Members' Handbook.

### **What decision(s) are being asked for?**

11. That Council approve the following:

- (a) The proposed changes to the Constitution as detailed in the report and notes that the Monitoring Officer will, under delegated powers, amend the Constitution accordingly.
- (b) The Social Media Framework: Policy and Guidelines for Elected Members for inclusion within the Members Handbook.
- (c) That the Monitoring Officer, under delegated powers be authorised to amend the Constitution and make any necessary minor textual changes or further adjustments to comply with any subsequent legislative changes, changes to reflect decisions taken by Council and/or Executive and changes which are of typographical/drafting error nature.

### **Other potential decisions and why these have not been recommended**

11. That no action be taken in respect of the proposed amendments. This would result in the Constitution becoming out of date and not compliant/compatible with appropriate legislation or standard procedures.

### **Impact(s) of recommended decision(s)**

#### ***Legal***

12. As per Section 37(1) of the Local Government Act 2000, a local authority which are operating executive arrangements or alternative arrangements must prepare and keep up to date a document (referred to in the section as their constitution) which contains prescribed information.

The changes suggested within this report are therefore in compliance with the above by way of keeping the constitution up to date.

#### ***Financial***

13. The report details changes to the Financial Procedure Rules Contract Procedure Rules Financial Thresholds. There are no budgetary implications.

***Policy Framework***

14. Not applicable. The report does not propose an amendment to the policy framework.

***Equality and Diversity***

15. There are no equality or diversity impacts.

***Risk***

16. If the Council does not have adequate governance processes in place to ensure that it complies with all relevant legislation, it could result in a breach in governance requirements leading to (depending on the seriousness of the breach) fines, reputational damage, government intervention alongside failure to deliver organisational priorities.

**Actions to be taken to implement the decision(s)**

17. The Monitoring Officer will ensure that the changes outlined within the report are made to the Constitution.