

Report of:	Director of Legal and Governance Services
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AGENDA ITEM 14

Submitted to:	Council – 25 November 2020
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Subject	Proposed Amendments/Additions to the Constitution/ Amendment to the Terms of Reference of the Chief Officer Appointments Committee/Amendment to Paragraph 4 of the Officer Employment Procedure Rules
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Summary

Proposed decision(s)
<ol style="list-style-type: none"> 1. That the Council considers and endorses the proposed amendments to the following provisions within the Constitution: <ol style="list-style-type: none"> a) Make-up of the Overview and Scrutiny Board. b) Council’s Filming / Livestreaming Protocol c) Chairing and Votes of No Confidence 2. That the Council approves the amendment to the Terms of Reference of the Chief Officer Appointments Committee 3. That the Council approves the amendment to Paragraph 4 of the Officer Employment Procedure Rules.

Report for:	Key decision:	Confidential:	Can be called-in:
Decision	No	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
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.

Ward(s) affected
Not applicable

What is the purpose of this report?

1. The purpose of the report is to request the views of members with regard to;
 - a) Reviewing the Terms of Reference and political composition of the Overview and Scrutiny Board. The purpose of the review is to ensure that all of the individual Chairs of the six Scrutiny Panels have a seat on the Board.
 - b) Temporarily revising the Council's Filming Council Meetings protocol due to Covid 19 and the implementation of remote meetings.
 - c) Adding a section on the appointment of chairs and votes of no confidence as the Constitution is currently silent on these issues. And deleting the references at paragraph 21(f) and 57(b) of the Council procedure rules.
2. To amend the Terms of Reference of the Chief Officer Appointments Committee to reflect the fact that only the appointment of the Council's Chief Executive needs to be confirmed by the Full Council.
3. To amend Paragraph 4 of the Officer Employment Procedure Rules to reflect the fact that the appointment of the Monitoring Officer and the Chief Finance Officer (S151 Officer) is the responsibility of the Chief Officer Appointments Committee. An offer of employment to these posts shall only be made where no well-founded objection has been received from any member of the Executive.

Why does this report require a Member decision?

4. The Constitution is a live document, which from time to time requires adjustment to reflect how the Council operates. It is sometime since a comprehensive review has been undertaken and therefore a phased review is underway to ensure that the constitution is fully up to date. The Constitution and Member Development Committee initially consider changes to the Constitution before being approved by full Council.
5. Changes to the Constitution usually fall within three broad areas, and the proposed changes that have been endorsed by the committee are described as follows:-

- I. **Alterations made as a result of decisions of either the Council or the Executive.**

There are no alterations made as a result of decisions of either the Council or the Executive.

Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required because of legislative changes.

There are no alterations made as a result of changes required because of legislative changes.

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

Overview and Scrutiny Board - Up until the last elections which took place in 2019, there was a large majority in favour of one political party, and, as a consequence, because of political balance, almost all of the Chairs of the Council's Scrutiny Panels were taken up by members of that political party. Following the elections, and the political balance being close does not always allow all of those members who have been elected as a Scrutiny Panel Chair to automatically have a seat on the Board.

A number of different scenarios have been considered, including changing the number of members on the Board, but this still does not always allow for all of the Scrutiny Panel Chairs to be a member of the Board. The Chair of the Overview and scrutiny Board has been consulted and agrees with the proposed solution.

One option that could be considered is for all the Chairs of the individual Scrutiny Panel's to become Ex Officio (an obligation or privilege a person has, by virtue of their position, to serve on a board or committee) Voting members of the Overview and Scrutiny Board (see **Appendix 1**) . This would ensure that all Scrutiny Panel Chairs were automatically afforded a seat on the Board. The remaining seats could then be allocated, according to political balance.

Filming / Livestreaming Protocol - The Filming Council Meeting Protocol previously agreed by the Committee but not yet approved by Council was primarily developed to advise of processes for press and public when attending public meetings in person. Due to COVID all public Council and Committee meetings are now live streamed and member of the public access through Facebook or Youtube. Therefore filming/recording is not carried out in a way that may disrupt Council meetings. However, there are some elements that still remain relevant and will advise the public of current procedures for remote meetings. Therefore a revised protocol to deal with Live Streaming meetings is attached at **Appendix 2** for consideration.

Chairing - Due to major changes in political structures and the fluidity of group formation in the immediate period following the local elections, it was decided, at least for that municipal year that the Chairs of committees and panels would be appointed at the first respective meetings following the AGM. Historically such appointments take place at the Council's AGM, However, there is a lack of information in the current Constitution regarding the appointment of chairs as well as being silent on the point of votes of no confidence. Desktop research has been carried out of other local authorities and proposed additions / amendments for consideration are attached. **Appendix 3**. It is also proposed that references at paragraph 21(f) and 57(b) of the Council Procedure Rules be deleted as there may be occasions where the conduct of a member/chair may impact on the Council or the ability a committees/panels ability to run effectively.

Officer Employment Procedure Rules

To amend Paragraph 4 of the Officer Employment Procedure Rules to reflect the fact that the appointment of the Monitoring Officer and the Chief Finance Officer (S151 Officer) is the responsibility of the Chief Officer Appointments Committee. An offer of employment to these posts shall only be made where no well-founded objection has been received from any member of the Executive.

6. **Revision to the Chief Officer Appointment Committee's Terms of Reference to correct an ambiguity.**

The Chief Officer Appointment Committee's Terms of Reference currently include the provision that the appointment of the Chief Executive, the Chief Finance Officer and the Monitoring Officer are required to be confirmed by the Full Council.

There is a legal requirement under section 4 (1) (a) Local Government and Housing Act 1989 for the Council to designate one of its officers as the head of paid service. Under Para 4 (1) of Schedule 1 Part II Local Authorities (Standing Orders) (England) Regulations 2001, Council approval must be obtained before an offer of employment is made to appoint the Head of Paid Service.

Under the Council's Constitution (Paragraph 3 of the Officer Employment Procedure Rules) the full Council must approve the appointment of the Chief Executive following the recommendation of such appointment by the Chief Officer Appointments Committee.

There are no legal requirements for the appointment of the Chief Finance Officer or the Monitoring Officer to be confirmed by Full Council.

A copy of the revised Chief Officer Appointment Committee's Terms of Reference is attached at **Appendix 4**

What decision(s) are being asked for?

7. That Council consider proposals to update the Constitution and agree as follows:

- (a) That Council approves 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) That the Monitoring Officer, maintains under delegated powers to 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.
- (c) That the Terms of Reference of the Chief Officer Appointments Committee be amended to reflect the fact that only the appointment of the Council's Chief Executive needs to be confirmed by Full Council.
- (d) That paragraph 4 of the Officer Employment Procedure Rules be amended to reflect the fact that the appointment of the Monitoring Officer and the Chief Finance Officer (S151 Officer) is the responsibility of the Chief Officer Appointments Committee. An offer of employment to these posts shall only be made where no well-founded objection has been received from any member of the Executive.

Why is this being recommended?

7. Continually keeping the Constitution under review provides clarification and ensures the Council has effective decision making processes

Other potential decisions and why these have not been recommended

8. Maintaining the status quo leaves uncertainty and ambiguity for elected members.

Impact(s) of recommended decision(s)

Legal

9. No impact.

Financial

10. No impact.

Policy Framework

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

Equality and Diversity

12. Not applicable.

Risk

13. 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)

14. The Monitoring Officer will make any necessary changes to the Constitution, and the Terms of Reference of the Chief Officer Appointments Committee, as agreed by Council.

Background papers

15. Surrey Heath; Adur & Worthing Borough Council and Harrowgate Council Constitutions