



**COUNCIL: 28 February 2024**

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**Report of: Mr Simon Goacher, Independent Legal Advisor on Behalf of the Chief Operating Officer & Head of Legal & Democratic Services**

**Relevant Portfolio Holder: Councillor Y Gagen**

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**SUBJECT: COMMITTEE SYSTEM - CONSTITUTION MAY 2024**

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Wards affected: (All Wards);

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To provide the revisions to the constitution which must be adopted to implement the committee system form of governance from May 2024.

## **2.0 RECOMMENDATIONS TO COUNCIL**

- 2.1 That the revisions to the Constitution attached as Appendices to the report, be approved and implemented from the Annual Meeting of the Council in May 2024.
- 2.2 That the Head of Legal & Democratic Services, as Monitoring Officer, be given delegated authority to make any minor or inconsequential changes to the Constitution.

## **3.0 BACKGROUND**

- 3.1 The Council has resolved to change its form of governance to the committee system with effect from the Annual Council meeting in 2024. This is a significant change to the way in which the Council operates and requires major changes to the Council's constitution to reflect those changes.
- 3.2 On 18 October 2023 Council resolved that a single Policy and Resources Committee structure would be adopted, in addition to the current regulatory committees, would be adopted when the Council moves to the committee system. The proposed terms of reference of the Policy and Resources Committee were approved.
- 3.3 Work has been carried out on a revised constitution and the draft is attached. The principal aim of the changes has been to ensure that the new constitution reflects

the new form of governance and provides the Council with a legally compliant constitution within which to operate from Annual Council.

3.4 The opportunity has also been taken to simplify and update the constitution. The approach which has been taken is not to include anything in the revised constitution which is not required by law to be included unless there are very good reasons to incorporate them. As this is a significant change in the way the Council operates then there will be a period of transition and the new constitution will need to be kept under review and changes may be necessary as the Council implements the new governance structure.

3.5 The main features to note are;

- 1) The Articles have been removed as they are not legally required and duplicate some matters. Where necessary parts of the Articles have been incorporated into the summary and introduction or other parts;
- 2) All references to the Executive and Overview and Scrutiny Committee(s) and processes required where a council operates an executive form of governance have been removed, this has included the removal of:
  - a. the scheme of delegation to portfolio holders;
  - b. The cabinet procedure rules;
  - c. The Overview and Scrutiny Committee Procedure Rules;
  - d. The budget and policy framework rules;
  - e. The procedure on councillor's call for action;
- 3) Other items have been removed because they are no longer needed or relevant, this includes;
  - a. Temporary Changes to Contracts Procedure Rules – Covid;
  - b. Remote Meeting Procedure Rules;
- 4) Some items have been removed because they need not be included in the constitution, though they remain policies of the Council, this includes;
  - a. Pay Policy Statement;
  - b. Protocol on the use of ICT by Members;
  - c. Officer's code of conduct;
- 5) The new terms of reference of the Policy and Resources Committee have been included in Part 2;
- 6) References to Cabinet Working Groups have been removed as there will be no Cabinet, the Policy and Resources Committee will have power to set up Sub Committees and/or Working Groups. As the membership of the Committee will be subject to political balance rules it is suggested that the Working Groups should also, as far as possible, reflect political proportionality.
- 7) The Strategic Assets Committee has been removed. As the rules on borrowing have changed it is considered that this committee is no longer necessary;
- 8) The scheme of delegation to officers in Part 2 has been amended to reflect the fact that the Leisure service has now been brought back in house, the amendments relating to leisure are shown as tracked changes;
- 9) In the current scheme of delegation to officers there are certain decisions upon which officers must consult with members, usually the Leader, one or more portfolio holders or a combination. It has been amended to replace previous requirements with a requirement to consult with the Leader or the relevant Lead Member for the purposes of the relevant function(s) or service(s);
- 10) There have been some changes to the Officer Employment Procedure Rules to make the powers on suspension of statutory officers more clear;

- 11) The membership of the Independent Persons Panel has been amended to limit it to the Independent Persons to reflect good practice and JNC Guidance;
- 12) The Contracts Procedure Rules have been updated to reflect the change of governance and updated to reflect current legislative requirements. A separate project is under way to review the rules in light of the Procurement Act and so we have not reviewed it save to change mentioned above; and
- 13) Some existing provisions have been incorporated into other parts of the constitution to simplify it.

#### **4.0 THE LEGAL FRAMEWORK**

- 4.1 Chapter 4 of the Local Government Act 2000 (as amended by the Localism Act 2011) governs permissible forms of local authority governance which includes the committee system. Section 101 of the Local Government Act 1972 provides that a local authority may delegate the exercise of any of its functions (except any which by law must be exercised by full council) to a committee or sub-committee of councillors. Section 15 of the Local Government and Housing Act 1989 provides that committees must be politically balanced.
- 4.2 Section 9P of the Local Government Act 2000 requires that local authorities must prepare a constitution and keep it up to date. The constitution must by section 9P contain the authority's standing orders (procedural, and relating to contracts and to the appointment, discipline and dismissal of officers), the code of conduct for members and co-opted members and the members' allowances scheme. Other contents are prescribed by the Local Government Act 2000 (Constitutions) (England) Direction 2000.

#### **5.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 5.1 There are no specific implications arising from this report. Officer time will be required to support and service the committees and there will have to be a review of the members' allowances scheme and there will be special responsibility allowances payable to members with specific responsibilities relating to the committees.

#### **6.0 SUSTAINABILITY IMPLICATIONS**

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder.

#### **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are no significant financial or resource implications arising from this report.

#### **8.0 RISK ASSESSMENT**

- 8.1 There are risks to the Council in ensuring that the new system is fit for purpose and it is clear where respective decisions will be made.

#### **9.0 HEALTH AND WELLBEING IMPLICATIONS**

- 9.1 There are no health and wellbeing implications arising from this report.

## **Background Documents**

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

## **Equality Impact Assessment**

The decision does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

## **Appendices**

1. The Draft Constitution to be implemented wef the Annual Council meeting May 2024.