

COUNCIL

27 April 2023

Report of Solicitor to the Council and Monitoring Officer

CONSTITUTION UPDATE

1. In the last Annual Governance Statement, a targeted review and update of the Constitution was identified as a governance improvement. This was in two parts
  - (a) an update to better reflect the statutory position regarding ‘Executive Arrangements’ i.e. decision-making by the Executive
  - (b) a “re-presentation” of the Constitution to shorten and modernise the 750 page document, remove duplication and clarify where necessary . **This exercise does not extend to making substantive changes to how the Constitution operates. There are no changes to the current arrangements for decision making by members and officers. All decisions currently taken by members will continue to be taken by members.**
2. The “Executive Arrangements” work was completed and published in December 2022 and members were provided with full details via an information Digest and link on 23 December 2022.
3. Separately, further work has been undertaken in relation to the exercise at 1(b) above. This project has been worked on by a combination of external and in-house lawyers and policy and member services officers. The table below summarises the main “presentation” updates and clarifications across the various parts of the Constitution.

CURRENT PART	‘NEW’ PART	MAIN CHANGES IN PRESENTATION
PART1 Summary Explanation and Glossary	PART 1 Introduction Explanation and Glossary	Some material from ‘old ‘ Part 2 (Articles) is assimilated into this Part
PART 2 Articles of Constitution	NONE: partly merged into ‘new’ Part 1 and partly into new Part 2	Duplication removed
PART 3 Responsibility For Functions	PART 2 Responsibility For Functions	<ul style="list-style-type: none"><li>• Re-presentation of Officer Scheme of Delegation taking account of current officer structure in more user friendly format with consequent reduction in volume. <b>Split between officer and member decision making is unchanged</b></li></ul>

		<ul style="list-style-type: none"> <li>• Use of hyperlinks for supporting documents not legally required to be part of Constitution to be hosted on ModGov/website. This will also make future updating more efficient eg. Portfolio Holder responsibilities, procedural documents such as “Arrangements” for code of conduct complaints, structure diagrams, Property Acquisition, Investment and Disposal Strategy.</li> </ul>
PART 4 Rules of Procedure	PART 3 Rules of Procedure	<ul style="list-style-type: none"> <li>• A general review to ensure plain English in line with corporate guidelines and removal of duplication. Examples of duplication include rules around contracts repeated in both the Financial and Contract Standing Orders. <b>The split between member and officer decision making is unchanged.</b></li> <li>• Lengthy descriptions of processes have been removed in order that there is a focus on the Rules. For example, a much shorter description of the Councillor Call for Action provisions will be set out in Part 3 together with a link to the full procedural guidance on the website. Examples of statutory entitlements of the public to be made available from a hyperlink.</li> <li>• Clarification and simplification of the Financial Procedure Rules to provide greater clarity of roles and responsibilities for each procedure aligned to the current senior management structure. <b>The split between officer and member decision making is unchanged.</b></li> <li>• Guidance appended to the Contract Standing Orders (CSOs) removed and will be hyperlinked. Repetition between the Guidance and CSOs also removed.</li> <li>• Some general corrections throughout to reflect modern working practices eg how information is published and meeting arrangements.</li> </ul>
PART 5 Codes and Protocols	PART 4 Codes and Protocols	N/A

PART 6 Members Allowance Scheme	PART 5 Members Allowance Scheme	Updated and re-presented to remove out of date information and to reflect current status of Scheme.
PART 7 Management Structure	NONE- Information assimilated into Part 2	

4. It is anticipated that the overall length of the Constitution will be reduced by almost a half.
5. Since different groups have worked on different parts of the Constitution it will be necessary to undertake a final consistency and legal verification check prior to production and use of the revised format Constitution. This will include ensuring that all relevant substantive provisions of the previous Constitution have been carried forward into the appropriate Parts of the revised Constitution and making any required corrections after publication.
6. I therefore RECOMMEND that I complete the re-presentation exercise described in this report and finalise and publish the Constitution when the final verification process has been completed. I will ensure all members are informed at the appropriate time.
7. Following this exercise, there is an opportunity to continue the improvement work by identifying areas where change (as opposed to re-presentation) could lead to greater efficiency. Any recommendations from such an exercise would need to be brought to the Selection and Constitutional Review Committee for consideration in the new municipal year.

T.W. Mortimer  
Solicitor to the Council and Monitoring Officer  
April 2023